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COMMITTEE ON THE ELIMINATION OF
DISCRIMINATION AGAINST WOMEN

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Initial report of States parties

SOUTH AFRICA*

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The Government of the Republic of South Africa is pleased to present to you our first report on the Convention on the Elimination of All Forms of Discrimination Against Women *(CEDAW)*.

The dawning of the new democratic South Africa has witnessed a profound transformation in all aspects of our lives. Our new Constitution has enshrined universally-recognized fundamental rights which affirm the democratic values of human dignity, equality and freedom.

Moreover, there is a specific Constitutional provision for the establishment of the Commission for Gender Equality, now fully operational, which is empowered to promote respect for and the protection, development and attainment of gender equality.

Our first *CEDAW* report sets out our achievements over the past few years of democratic government. We acknowledge, however, that we have not yet attained our objective.

We welcome the close scrutiny of the international community on our conduct in regard to the quality of life of South African women and the extent to which we have eliminated all forms of discrimination against women. Our commitment to implementing the convention is resolute and we anticipate significant progress by the time of our next *CEDAW* report.

Women constitute the majority of the South African population and, although we now have a democratic society, we concede that freedom will not be fully attained unless women have been truly emancipated and empowered in all spheres of life.

Mandela

Nelson Mandela
President
Republic of South Africa

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CONVENTION FOR THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

FIRST SOUTH AFRICAN REPORT

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INTRODUCTION

> *It is vitally important that all structures of government, including the President himself, should understand this fully: that freedom cannot be achieved unless women have been emancipated from all forms of oppression. All of us must take this on board, that the objectives of the Reconstruction and Development Programme (RDP) will not have been realized unless we see in visible and practical terms that the condition of the women of our country has radically changed for the better, and that they have been empowered to intervene in all aspects of life as equals with any other member of society.*

These words, spoken by President Nelson Mandela at the opening of South Africa's first democratically elected parliament, underscore the seriousness with which the President and government of South Africa take the issue of gender equality.

During the apartheid era, the struggle against racial discrimination took centre stage. Redressing the deep-seated racial legacies of apartheid remains one of the government's most daunting challenges. But the parallel struggle for gender equality has revealed another dimension of inequality which the government is determined to redress alongside the racial imbalances .

In this report, a Judge of the Constitutional Court is quoted as saying: "It is a sad fact that one of the few profoundly non-racial institutions of South Africa is patriarchy." All women in South Africa have, at some stage of their lives, experienced discrimination. Yet most black women - and especially those in the rural areas - have suffered from three forms of discrimination: on account of their race, gender and class. Black women with disabilities have suffered a fourth form of discrimination. Those in rural and other disadvantaged areas have suffered a fifth form. Special emphasis is placed in government policies and programmes on reaching those women who have been most marginalised.

The struggle of South African women did not begin in 1994. The most well-known example of women's resistance is the anti-pass law campaign of the 1950s. On 9 August 1956, between six and twenty thousand women - mostly African - marched to the Union Buildings in Pretoria under the banner of the Federation of South African Women to protest against the extension of pass laws to women. This march occurred forty years before South Africa's ratification of CEDAW. The bravery of those women is now commemorated every year on Women's Day, 9 August, which is a public holiday.

This was not the only time that South African women participated in the struggle for their rights. Women played an important role in the national liberation struggle against apartheid. They also engaged with more specific gender-related issues. One of the well-known, and more recent examples is the drawing up of the Charter for Effective Equality under the auspices of the Women's National Coalition. This Coalition, which occurred at the time of the multi-party negotiations, drew together women across race, party, class, language and many other divides. It was a major factor in ensuring the gender sensitivity of the Interim Constitution under which the 1994 elections were held.

Both the interim Constitution and that of 1996 specifically outlaw discrimination based on sex. The present Constitution makes other important provisions, such as the right to security

of the person. It also provides for certain socio-economic rights. Both of these rights have a special significance for women who constitute the majority of the poor and dispossessed, and who are subjected to gender based violence.

In the three years since South Africa held its first democratic elections, a number of laws have been reviewed in an effort to expunge any remaining discriminatory laws from the statute books. Efforts are being made to ensure that gender is taken into account in all new legislation, such as that relating to land tenure.

The new constitution provides for affirmative action. The Public Service has set transformation targets that include race and gender. Equal opportunity legislation soon to be enacted will oblige both public and private sectors to work towards a labour force which is truly representative of South Africa.

Many of the legislative changes have come about as a result of pressure from women parliamentarians and members of provincial legislatures. Thanks in large measure to the one third quota for women by the ruling African National Congress in the 1994 elections, women constitute approximately one quarter of law makers both at national and provincial level. Women also constitute 30% of ministers and deputy ministers. The government is determined to ensure that the numbers of women in decision making positions increase until such time as gender parity is achieved.

To ensure that gender equality is advanced in all spheres, the government is committed to integrating gender considerations systematically into all government policies and programmes. To this end, a comprehensive Gender Management System which fans strategically through structures in government, the legislature and independent bodies is being established (see Article 1).

As part of this initiative, an Office on the Status of Women (OSW) has been established in the Deputy President's Office. Provincial OSWs have, or are being established in the offices of most premiers. These structures will coordinate gender units in all government departments - at national and provincial level. The OSW is currently overseeing the development of a National Gender Policy. Some departments and provinces have already started drafting their own gender policies (see Article 2).

The Constitution provides for an independent Commission on Gender Equality (CGE) which reports to parliament. The Commission, which began work in April 1997, is responsible for advocating and overseeing the advancement of gender equality in both public and private sectors. One of its tasks is to monitor, and make recommendations to parliament, on the implementation of CEDAW. The Commission also faces the enormous challenge of mobilising public opinion around the many aspects of gender discrimination which stem from custom, tradition and religion, that is, practices and beliefs which seldom respond to mere legislative reform (see Article 5).

The women's movement has played a crucial role in drawing the attention of government to issues of gender inequality and advocating the measures which have been taken to date. The government is grateful to the many non-governmental organisations (NGOs) that commented on the first draft of this report, enriching its contents and highlighting the many tasks that still remain. The government is also grateful to those NGOs which compiled the questions which

formed the basis of submissions by government departments. The report recognises the role that NGOs have played in the past, and continue to play, in educating women about their rights. The government is firmly committed to continuing to work in partnership with civil society in these and other matters.

In its efforts to advance gender equality, South Africa has benefited enormously from its contacts with regional organisations, such as the Southern African Development Community (SADC), as well as the broader international community. The advent of the new South Africa coincided with preparations for the Fourth World Conference on Women in Beijing. This conference hastened and reinforced the efforts being made within the country to get gender issues on the agenda.

South Africa has continued to benefit from the support and advice of the United Nations and its many agencies now represented in the country. The government is also indebted to the Commonwealth Secretariat for the valuable technical assistance it has provided in establishing a Gender Management System; developing gender policies at national and departmental level; and in the preparation of this report.

This report - South Africa's first - establishes a baseline of information; assesses progress to date, and identifies areas for further action. Because violence against women constitutes a major problem in South Africa, and one that clearly violates the Constitution, the report addresses this issue specifically under General Recommendations 12 and 19 of CEDAW. South Africa supports the inclusion of this recommendation as an Article of the Convention.

The government is committed to ensuring that when South Africa next reports to the CEDAW committee, far greater progress will have been made in ensuring that women's rights are recognized as human rights, and that women participate fully and equally in every facet of life.

Structure of the Report

Part I of this report provides a brief description of the country. This description is standard for all reports on international conventions. It therefore does not elaborate on gender issues. That elaboration is left to later discussion of the relevant CEDAW article.

The country description is followed by Part II which consists of a sequential discussion of each of the CEDAW articles. As with some other country reports, South Africa has chosen to amalgamate the discussion of Articles 2 and 3 to avoid unnecessary repetition.

Due to the seriousness of the problem, South Africa has also decided to add a section on violence against women. This is not dealt with directly under any of the CEDAW articles. Instead, it is discussed under CEDAW General Recommendations 12 and 19, provisions which were drawn up after CEDAW.

Many of the CEDAW articles overlap. Many government actions are relevant to more than one article. To avoid too lengthy a report, repetition is avoided wherever possible. A full understanding of government action therefore requires that the reader go through the full report.

The report follows the CEDAW articles in separating out the discussion of rural women. This

separation presents several problems. Firstly, to avoid repetition, it means that rural issues are not dealt with under other articles where the discussion would have been appropriate. Secondly, the separation of rural women raises the question as to why other marginalised or vulnerable groupings - for example, those living in informal settlements, the disabled, the girl child - were not similarly separated. This issue perhaps needs to be considered by CEDAW.

Issues relating to the girl child are touched on in this report but not given their full due. The issues will be elaborated in South Africa's report on the Rights of the Child, which is presently being compiled.

For the most part, information in this report is based on government sources - either the CEDAW submissions themselves, or other official documents. To avoid a multitude of footnotes, official sources have not been referenced. Where other sources have been used, these have been indicated in the text.

Limitations of the Report

The South African Constitution allocates powers of policy making and delivery in different sectors between the national, provincial and local levels. This report was compiled primarily on the basis of submissions from national departments. In some cases the national department requested input from the provincial level. In most cases the response was patchy. The report thus reflects the broad national picture, but is missing some important regional differences.

Some important government-related institutions were also not requested to provide input. These include, for example, the Central Statistical Service, SA Revenue Services, Land Bank, National Housing Board, Deeds Office, and so on. There were also no reports from the range of commissions and other independent bodies created under the new Constitution. A few Departments reported on such bodies which had powers linked to their own. Many others do not. This gap in the report will also need to be addressed in future reports.

The other major limitation is the deficiencies in data and statistics. The previous government's information system reflected its patriarchy and racism. It was particularly weak in respect of the more marginalised areas and issues, which are often those of greatest relevance for women. There have been some steps to address this since 1994. One example was the ability of all government departments to provide breakdowns by race, gender and level of their staff complements. This would not have been possible three years ago. Nevertheless, there are still very serious deficiencies which are evident in the report.

Finally, the government is aware that while laws and formal policies can be changed fairly rapidly, practices on the ground take much longer to change. The government has ratified CEDAW, but social, traditional and customary practices still contradict CEDAW provisions in many respects. Much of this document presents information on legislative and policy changes. In many cases the discrimination which these government initiatives attempt to address, persists.

PART I: COUNTRY DESCRIPTION

General Political Structure

The orginal inhabitants of South Africa were hunter-gatherers known as the San and Khoikhoi. About 1500 years ago there were migrations to present day South Africa from further north on the continent. European colonisers arrived after 1600; the first Dutch (later to be known as Afrikaners) in 1652, the British after 1795 and slaves from Indonesia and elsewhere from the mid 17th century.

A number of different administrations followed in the next century and a half. All incorporated elements of both racial and gender discrimination. The oppressive apartheid policies in South Africa were formalised in 1948 with the election of the National Party under Dr DF Malan, although apartheid-type laws and practices had been imposed much earlier. These policies segregated racial groups into Africans, Coloured, Indians and Whites and applied social, political, economic, residential and employment restrictions. The policies were further entrenched by a series of Acts during the 1950s.

The process of dismantling apartheid commenced in 1989 in response to the struggle waged by liberation movements; mounting internal and international pressure. During 1990 the bans on movements such as the African National Congress (ANC), the Pan Africanist Congress (PAC), and the South African Communist Party (SACP) were lifted and Nelson Mandela was released from prison:

Multiparty negotiations between 1991 and 1993 culminated in the adoption of the interim constitution. The constitution took effect from April 1994 when the first democratic elections were held. Over the subsequent three years, the National Assembly and Senate, sitting as a Constitutional Assembly, negotiated a final constitution. This new Constitution came into effect in February 1997.

Structure of government

The Parliament has two houses - a National Assembly and a National Council of Provinces (which succeeded the senate under the new Constitution).

The National Assembly consists of 400 seats elected on the basis of proportional representation in relation to the number of votes cast for the different parties. 200 seats are selected from provincial lists of fixed number (varying by province) and 200 are drawn from national lists to ensure proportionality with party votes. The National Council of Provinces consists of 54 permanent representatives and 36 special delegates to be nominated from time to time by the provincial legislatures.

The President must be a member of the National Assembly. He or she is elected by majority vote of the National Assembly and must then resign his or her seat.

There are two further tiers of government - at provincial and local level. The first provincial elections took place at the same time as the national election. Local government elections were held in most provinces in late 1995 and in other provinces in May 1996.

In the National Assembly the African National Congress holds the majority of seats having received 63% of the total vote. The National Party received 20% of the vote and the Inkatha Freedom Party received 11%. Smaller parties with seats include the Freedom Front, the Democratic Party, the Pan Africanist Congress and the African Christian Democratic Party.

Legal System
The South African legal system is based on Roman-Dutch law subject to the Constitution. Judicial authority is vested in the courts.

The Constitutional Court has jurisdiction over all matters relating to the interpretation, protection and enforcement of the Constitution and its decisions are binding upon all persons and upon all legislative, executive and judicial organs of State.

Land and People

Geography
South Africa is situated on the southern tip of Africa. It is bounded by the Atlantic Ocean to the west and the Indian Ocean to the east. Its northern borders are shared with Namibia, Botswana, Zimbabwe and Mozambique. Lesotho is entirely and Swaziland partially within its boundaries. The total area of the country is approximately 1 219 080 square kilometres.

The interim constitution, which was adopted in December 1993, created nine provinces. These formed the basis of the first democratic elections in April 1994. They replaced the former four provinces, four nominally "independent" states or homelands and six "self-governing territories". The new provinces are the Eastern Cape, the Free State, Gauteng, KwaZulu-Natal, Mpumalanga, Northern Cape, Northern Province, North West and Western Cape.

The geography and climate of South Africa vary quite widely. The provincial capital with the highest rainfall is Pietermaritzburg in KwaZulu-Natal, which receives approximately 149mm per annum. The driest capital is Kimberley in the Northern Cape, which receives only 64mm of rainfall per annum. The terrain includes Savannah with mixed grasslands and trees, found mainly on hills and river beds, the dry Karoo and lush Fynbos areas.

Ethnic and demographic characteristics
In mid-1995 the population of South Africa was estimated to be 41 244 000. Women accounted for approximately 51% of the total population.

The table below provides the breakdown by population group. Current estimates are based on the census of 1991. Another census was taken in November 1996. Preliminary results were released in July 1997, and suggested that previous estimates had been too high. The table below reflects the earlier figures, while the new estimates suggest a total of around 37,9 million.

Population mid-1995

Population group	Population
African	31461000
Coloured	3508000
Indian	1051000
White	5224000
Total	41244000

Approximately 48% of the population lives in urban areas. The Northern Province, with 91% rural inhabitants, is the province with the highest proportion of non-urban dwellers. With 96% of its people living in urban areas, Gauteng has the highest urban population.

The pattern of official migration into and out of South Africa in 1995 is shown in the table below.

Immigration and emigration

Destination/Source	Immigrants	Emigrants
Europe	2272	2963
Australasia	85	2449
Asia	927	163
Africa	1304	1114
Americas	281	1612
Other	195	424
TOTAL	5064	8725

There are also widely varying estimates of illegal immigrants into South Africa (mainly from Southern African countries) and many people seeking refugee status. These issues are discussed under Article 9.

Economy

Gross Domestic Product

South Africa has the largest economy in southern Africa. In 1994 South Africa accounted for 44% of the combined gross national product of all countries in the sub-Saharan African region.

In 1995 the primary sector accounted for 14% of South Africa's GDP, the secondary sector for 33% and the tertiary sector for 54%. Mining and quarrying are major industries within the primary sector, together accounting for 9% of GDP. Manufacturing is the major component of the secondary sector, comprising 25% of GDP.

Rate of Inflation

The inflation rate in May 1997 was 9,5%.

External Debt

During the first half of the 1980s there was a dramatic increase in South Africa's external debt from US $16.9 billion to US $24.3 billion. This was exacerbated by the decline in the external value of the rand over this period. Since 1986 there has been a series of Interim Debt Arrangements entered into and South Africa has substantially reduced its foreign debt. By the end of 1995 the amount of affected debt was US$3,0 bn (R10,8 bn) and non-affected debt was US$10,1 bn (R28,0 bn).

Income Distribution
South Africa is characterised by extremes of wealth. Although it is classified as a middle income developing country, the vast majority of the people are extremely poor. The gini coefficent is one of the highest in the world. 95% of the poor are African. 75% of the poor live in rural areas.

Household Composition
Some of the poorest households are those in rural areas headed by women. The Project for Statistics on Living Standards and Development of 1993 found that the mean total household income for female-headed households was R1 141 per month compared to a mean of R2 089 for all households. The mean monthly income per head in female headed households was R243 compared to R468 for all households.

Many poor households contain three or four generations. The middle generation is often dispersed because men and women live elsewhere for employment reasons.

Unemployment
One of the most serious problems confronting South Africa is the chronic level of unemployment, particularly amongst the previously disadvantaged population groups.

In October 1995 14,4 million of the 26,4 million South Africans aged 15 or older were economically active. Of the 14,4 million economically active, 10,2 million were employed and 4,2 million - or 30% - unemployed.

Unemployment figures illustrate the legacy of apartheid with Africans the most badly affected. Among all population groups the female unemployment rate is markedly higher than that for men, as shown in the following table.

Unemployment rates

Gender	African	Coloured	Indian	White
Women	50.2%	27.8%	24.2%	9.2%
Men	33.6%	19.7%	13.3%	4.5%
Total	41.1%	23.3%	17.1%	6.4%

A significant proportion of those who are employed work in the informal sector.

Social Indicators

Literacy rate
Virtually all adult whites are literate, while close on a quarter of adult Africans are illiterate. Literacy estimates for 1991 were as follows:

Literacy rate

Population Group	% literate
African	77%
Coloured	91%
Indian	95%
White	100%
Total	82%

Religion

About 15 percent of South Africans are ancestor worshippers; 80 percent Christians and the remainder are mostly Hindu, Muslim or Jewish.

Mother tongue

The new Constitution provides for eleven official languages, rather than two. The two previous official languages, English and Afrikaans, are still used as the most common forms of official communication. However public institutions such as the South African Broadcasting Commission are endeavouring to incorporate more languages into their operations. Community radio stations using the language of the local area are a popular form of media.

The distribution of home languages according to the 1991 census is as follows:-

Home language

Language	% of population
Afrikaans	15%
English	9%
IsiNdebele	2%
Sepedi	10%
Sesotho	7%
SiSwati	3%
Xitsonga	4%
Setswana	7%
Tshivenda	2%
IsiXhosa	18%
IsiZulu	22%
Other	2%

Life Expectancy

The table below shows the significant racial differences in life expectancy. Women of each population group have a longer life expectancy than men of the same group.

Average life expectancy 1995 (years)

Race	Women	Men	All
African	68,2	63,5	65,8
Coloured	68,5	62,6	65,5
Indian	73,0	67,3	70,1
White	76,6	69,9	73,2

Birth Rates and Infant Mortality

Birth rates per 1 000 of the population according to the October 1994 Household survey are as follows:

Birth rates

African	Coloured	Indian	White
25.3	21.7	18.1	13.7

Infant mortality rates show a similar racial disparity partially reflecting the uneven provision of medical services, lack of adequate nutrition and poor quality of living standards in some communities. In 1994 the reported infant mortality rates were 54,7 deaths per 1 000 live births for African infants, 36,2 for coloured, 9.9 for Indian and 7,3 for white. Rural areas had the highest infant mortality rates.

Maternal Mortality

Maternal mortality also differ markedly on racial lines. Estimates are unreliable due to poor reporting. Official figures for 1992 range from two per 100 000 live births for Indians to 58 per 100 000 for Africans. However, indirect demographic techniques put the estimate at around 250 in 1991 for African women.

Population by Age Group

South Africa has a young population. 15% of the total population is aged 5 years or younger. Another 21% of the population is aged 6-14 years.

Among adults there is a locational gender bias. In the peak income earning years the number of men in urban areas exceeds that of women while women predominate in the non-urban areas.

Population by gender, age and location

	0 to 19yrs	20 to 39yrs	40 to 59yrs	over 60yrs
Urban women	3579000	3459000	1823000	787000
Urban men	3697000	3806000	1958000	627000
Non-urban women	5764000	2917000	1641000	751000
Non-urban men	5789000	2349000	1064000	487000
% of population	46.7%	31.1%	16.1%	6.6%

PART II

ARTICLE 1: DEFINITION OF DISCRIMINATION AGAINST WOMEN

For the purposes of the Convention, the term "discrimination against women" means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The Women's Charter for Effective Equality

In February 1994, the Women's National Coalition- an umbrella body of over 90 women's groups countrywide- convened a Convention which adopted the "Women's Charter for Effective Equality". The Charter was the culmination of one of the most extensive participatory research and consultation projects on the needs and demands of women ever to have been undertaken.

The preamble to the Charter stated that South Africa's women were "committed to seizing this historic moment to achieve effective equality in South Africa. The development of the potential of all our people, women and men, will enrich and benefit the whole of society".

Women presented the Charter to the parties then engaged in negotiating an end to apartheid. They also insisted that every party to the multiparty negotiations have at least one woman on their delegation.

The Constitution

South Africa's first democratic elections took place in April 1994 under an Interim Constitution based on principles of equality, justice and freedom. For the next three years, a Constitutional Assembly, consisting of the National Assembly and the Senate, debated the final form of the Constitution. The new Constitution (1996) came into effect on 4 February 1997.

This new Constitution, which has been widely acclaimed internationally, entrenched equality even more firmly in the country's value system. The founding provisions, set out in Chapter 1, assert that the democratic state is founded on the values of:

(a) *Human dignity, the achievement of equality and advancement of human rights and freedoms; and*
(b) *Non-racialism and non-sexism.*

Among the important clauses of the Constitution for the advancement of gender equality are:

- The *equality* clause in the Bill of Rights, which says that "the state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth."

- *Affirmative action*, provided for in the clause which states that "legislative and other

measures" may be taken to "protect or advance" people who have been disadvantaged.

- The clause on *freedom and security of the person*, which states that everyone has the right to "bodily and psychological integrity". This includes the right to make decisions concerning reproduction, and to security and control over one's body.

- While the Constitution acknowledges the right to property, it states that "no provision may impede the state from taking legislative and other measures to achieve land reform or equitable access to natural resources in order to redress the results of past racial discrimination". This clause is crucial to one of the most disadvantaged groups of women - rural African women dispossessed of *access to land* by both apartheid and tradition.

- The Constitution states that where there is a conflict between *customary law* and the Constitution, the Constitution will take precedence.

- The Constitution provides for *socio-economic rights* by committing the state to take "reasonable legislative and other measures, within its available resources, to achieve the progressive realisation" of the right to adequate housing, health care services, food, water and social security.

- The Bill of Rights states that everyone has the right to both *basic education and further education* which the state "must take reasonable measures to make progressively available and accessible".

The Constitution is written in plain and non-sexist language so as to make it accessible to all South Africans.

Definition of discrimination
South African law does not provide a definition of discrimination against women. Many of CEDAW's provisions have not yet been directly included in South African laws. However, Section 231(4) of the Constitution states that:

> *Any international agreement becomes law in the Republic when it is enacted into law by national legislation; but a self-executing provision of an agreement that has been approved by Parliament is law in the Republic unless it is inconsistent with the Constitution or an Act of Parliament.*

Section 233 of the Constitution states that:

> *When interpreting any legislation, every court must prefer any reasonable interpretation of legislation that is consistent with international law over any alternative interpretation that is inconsistent with international law.*

The provisions of CEDAW are therefore relevant to the interpretation of all South African laws even where there is no explicit legislation.

Recent cases illustrate the way in which the South African legal system is interpreting equality and discrimination.

- In *Brink v Ritshoff* 1996 (4) SA 197 C) the Constitutional Court ruled that provisions which discriminate against married women are illegal and must be abolished.
- In *George v Western Cape Education Department* 1996(2) BLLR 166 (IC), the Industrial Court of the Western Cape had to decide on the issue of housing subsidies for married women. The Court looked to the Constitutional prohibition of discrimination on the basis of sex and marital status. It ordered that the applicant be granted the subsidy and that the discriminatory provisions be amended.
- In *Professional Teachers and Rademan v Minister of Education and Governing Body of Primrose Hill Primary School* 1995(9) BCLR 29 (IC), the Industrial Court found that the housing policy in the Public Service Staff Code directly discriminated against a class of women on the basis of their sex and marital status. It said the provision must be amended.

This last case was decided before the Labour Relations Act (1995) came into effect. This Act now specifically provides that unjustified discrimination constitutes an unfair labour practice.

Public education

The Constitutional Assembly has distributed a pocket sized copy of the Constitution, a simplified version, a comic strip about the Bill of Rights, caps, badges and other materials promoting the Constitution and encouraging people to become aware of their rights. The new Commission on Gender Equality (see Article 2) will be launching major public education campaigns on gender equality.

International Conventions and Treaties

South Africa has signed and ratified two international conventions central to women's equality:

- The Convention on the Elimination of all Forms of Discrimination against Women (ratified 15 December 1995); and
- The Convention on the Rights of the Child (ratified 16 June 1995).

South Africa has signed, but not ratified, a further range of international conventions and treaties which affect the rights of women. These include the:

- International Convention on the Elimination of all Forms of Racial Discrimination (signed 3 October 1994);
- International Covenant on Economic, Social and Cultural Rights (signed 3 October 1994);
- International Covenant on Civil and Political Rights (signed 3 October 1994);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (signed 29 January 1993);
- Convention on the Political Rights of Women (signed 29 January 1993);
- Convention on the Nationality of Married Women (signed 29 January 1993); and
- African Charter of Human and People's Rights (signed 9 July 1996).

In addition, South Africa has acceded to, but not ratified, the following instruments:

- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (acceded 29 January 1993);
- Convention relating to the Status of Refugees, 1951 (acceded 12 January 1996);
- Convention relating to the Status of Refugees, 1967 (acceded 12 January 1996);
- Protocol relating to the Status of Refugees (acceded 12 January 1996); and
- Organisation of African Unity (OAU) Convention Governing Specific Aspects of Refugee Problems in Africa (acceded 15 December 1995).

Finally, there are a number of basic human rights instruments which the government has not yet signed or acceded to:

- Optional Protocol to the International Covenant on Civil and Political Rights, dealing with claims by individuals that they are the victims of human rights violations;
- Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the Death penalty;
- Convention on the Prevention and Punishment of the Crime of Genocide;
- African Charter on the Rights and Welfare of the Child;
- Hague Convention on the Civil Aspects of International Child Abduction;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; and
- Convention relating to the Status of Stateless Persons; and Convention on the Reduction of Statelessness.

South Africa unequivocally supported the Universal Declaration of Human Rights at an event commemorating the 60th anniversary of its adoption in Warsaw in January 1997.

ARTICLE 2: OBLIGATIONS TO ELIMINATE DISCRIMINATION

States Parties condemn discrimination against women in all its forms, agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women and, to this end, undertake:

a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means the practical realisation of this principle;

b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

e) To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;

f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

g) To repeal all national penal provisions which constitute discrimination against women.

ARTICLE 3: DEVELOPMENT AND ADVANCEMENT OF WOMEN

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Legislation and administrative procedures

South Africa began to repeal discriminatory laws even before the 1994 elections. At the general level, the General Law Fourth Amendment Act (1993) repealed a number of discriminatory laws regarding citizenship, attendance at trials, dismissal of female employees on marriage, and prohibition of women performing dangerous or night shifts.

At the sectoral level, departments are largely responsible for initiating legislation. Where departments are aware of discriminatory provisions, they generally address these in drafting their White Papers (see section on Policy below). The department's of Labour and Public Service and Administration are redressing discriminatory legislation relating to women and work (see Articles 4 and 11).

The Department of Land Affairs has identified the following as discriminatory:

- *Black Administration (1927)*: The Act regards women as minors who cannot own property or conclude contracts in their own right. A male relative has to do so on their behalf.

- *Natal Code of Zulu Law*: According to this law women are perpetual minors irrespective of their marital status. Married women are the subjects of their husbands. Those whose marriages are dissolved become the responsibility of their male relatives.
- *Common African Law and Custom*: Customary Law does not accord women the rights and powers to own property. The homestead head, husband or a male relative has to do so on her behalf.

Territorial legislation and numerous regulations continue to prevent women from owning land on the basis of their gender and race.

In drafting its land reform policy, the Department has attempted to give women security and equal rights with men regarding ownership, control and use of land. The Communal Property Associations Act (1996) provides for communal tenure in accordance with the principles of democracy, accountability and equality.

The Minister of Finance appointed the Katz Commission to review all aspects of the tax system in order to ensure that it supports the economic and social goals of the government, including equity and efficiency. In the light of the interim constitution, the First Interim Report of the Commission recommended changes to remove provisions of the income tax code which discriminated on the basis of gender and marital status. Policy and legislation were amended in the 1995/6 fiscal year to eliminate all overt gender discrimination.

The Pension Fund laws for the civil service were also found to be discriminatory, in that women contributed 6% and men 8% of their salaries. The different contribution rates resulted in discriminatory benefits. There is now a unifom contribution rate of 7,5% of pensionable salary. Another amendment to the Pension Fund law allowed for widowers', as well as the previous widows', pensions.

Most departments continue to review existing legislation on an ongoing basis to ensure that gender equality is not violated. The government is aware that there are still discriminatory laws and regulations on the books, and is committed to amending them. The ad hoc Committee on the Quality of Life and Status of Women in parliament, and the Commission on Gender Equality (see below) are tasked with reviewing all existing and upcoming legislation to ensure that it is gender sensitive.

Administrative problems hinder the implementation of some legislation. For example, the problems experienced under the Maintenance Act severely disadvantage women and children and allow men to escape financial responsibility for their children. Similarly in Health, while the laws do not discriminate against women, practices sometimes do. Health officials sometimes insist that men give consent before their wives can be sterilised or receive contraception. Artificial fertilisation is only available to married women, thus discriminating against unmarried women. This is currently being revised so that all women have access to the service. The Choice on Termination of Pregnancy Act also no longer requires the consent of the spouse or male partner for the woman to have access to the service.

National Machinery For Advancing Gender Equality

South Africa's National Machinery for Advancing Gender Equality is made up of a "package" of structures which fan strategically through:

- **Government**: structures in Cabinet, in the national and provincial government departments, and in the Office of the Deputy President and offices of the provincial premiers;
- **The Legislature**: national and provincial parliaments;
- **Independent bodies**: statutory bodies which are independent of government but report to parliament;
- **Civil Society:** all the above structures link closely with, and are supported by civil society.

Structures in Government

The Department of Public Service and Administration
The Department of Public Service and Administration is responsible for formulating policy in respect of employment and other practices within the public service. It therefore plays a central role in promoting gender equity within the public service.

Apex Structures at National and Provincial level
The Office on the Status of Women (OSW) is located in the office of the Executive Deputy President. The OSW co-ordinates the work of the gender desks in the line departments, and of provincial OSW's, as part of the "gender management system" of government. The first national OSW officials began working in March 1997. Provincial OSW's have, or are being established, in eight of the nine provinces.

Gender desks in departments
Government departments formulate policy, plan budgets, implement programmes and projects and deliver goods and services to the public. The primary goal of the National Machinery is to ensure that a gender perspective is integrated into all departmental work. In May 1996 the Cabinet approved the establishment of gender focal points in all government departments.

By early May 1997, 11 of the 28 departments had some form of gender unit, although many were located in the human resource divisions, rather than policy divisions. Six of the 28 had staff specifically assigned to working on gender issues, although some of these were Equal Employment Opportunity Officers. By early May 1997 two provinces reported having gender units within departments of health, welfare and education.

The functions of gender desk officers include:
- reviewing departmental policy and planning in line with the National Gender Policy;
- developing strategies to ensure the integration of gender policy and planning;
- coordinating gender training and education of all staff within departments;
- monitoring and evaluating projects, and
- establishing mechanisms to liaise with civil society, to facilitate intersectoral collaboration, and to utilise the skills and support of non-governmental organisations

The Department of Justice has taken the idea of gender units further and is in the process of establishing gender desks at all magistrates courts. One of the functions of these desks will be to receive complaints from the public on poor treatment of women in courts. Desk staff will also give legal information to women and, where necessary, refer them to other agencies such as women's services or legal aid organisations

Structures in the Legislature

Parliamentary Women's Group (see Article 7)
Approximately a quarter of those elected to the new parliament of 1994 were women. They have established a multi-party Parliamentary Women's Group (PWG) to assist them in their work as parliamentarians.

Select and Other Parliamentary Committees (see Article 7)
Select committees play an important role in policy formulation and in reviewing draft legislation. Since the 1994 elections, all meetings of these committees are open to the public. Most select committees are responsible for particular sectors. All committees have several women members. An ad hoc committee on Improving the Quality of Life and Status of Women was established in 1996. This Committee is responsible for monitoring the implementation of CEDAW.

Independent Bodies

Commission on Gender Equality (see Article 7)
The Commission on Gender Equality (CGE), which began work in April 1997, is an independent body reporting to parliament, provided for in the Constitution. Its functions include:

- monitoring and reviewing gender policies of all publicly funded bodies;
- advocacy, information and education;
- reviewing legislation to ensure that it protects the equality of women;
- recommending new legislation;
- conducting gender research;
- investigating complaints on any gender related issue and, where necessary, referring them to the Human Rights Commission or the Public Protector; and
- monitoring and reporting on compliance with international conventions, including CEDAW.

Human Rights Commission
The Human Rights Commission is concerned with the advancement and promotion of human rights. Since women's rights are human rights, this is another important mechanism available for women.

Public Protector
The Public Protector receives complaints from the public against government agencies and officials and investigates cases of unfair conduct. Women can take up grievances against government officials through this office.

Public Service Commission
The Public Service Commission is responsible for promoting the basic values and principles of public administration in the public service. One of these principles is the provision of equitable and unbiased services. Another is the establishment of a public administration that is broadly representative of the South African population. A third is the promotion of employment and personnel practices which are based on ability, objectivity, fairness and the need to redress the imbalances of the past. The Commission's activities will therefore support

the achievement of greater gender equality in the public service.

Commission for Restitution of Land Rights
Women's access to land is a critical component of economic empowerment. The Commission for Restitution of Land Rights and the Land Claims Court are concerned with the restitution and redistribution of land. Both are committed to upholding the constitutional rights of women to land.

Truth and Reconciliation Commission
The Truth and Reconciliation Commission has exposed the many dimensions of apartheid violence. The voices of women were heard in many of the hearings conducted throughout the country. Women spoke both as direct victims of the violence, and as mothers, wives, sisters, partners, children and grandmothers of those who suffered. Two hearings with a specific gender focus gave voice to the particular experiences of women as victims of violence during the apartheid years.

Financial and Fiscal Commission
The Financial and Fiscal Commission advises government on the allocation of government revenue. It is particularly concerned with the distribution of funds between the different functions and levels of government. The Commission's allocation formula, which favours the more rural provinces where women predominate, has an implicit bias in favour of women.

Judicial Authority
The Constitutional Court is the ultimate guardian of the Constitution. The High Court also has jurisdiction on a wide range of constitutional issues. The lower courts are responsible for everyday matters, many of which are of special importance to women; for example parental maintenance, sexual assault, and family violence interdicts. The Labour Court resolves disputes over issues such as retrenchments, dismissals and strikes. It can order employers to reinstate employees dismissed on discriminatory grounds or award compensation.

Women's organisations in civil society
National Machinery established by government cannot on its own change public policies. It can only do so through the participation of women in organisations outside government. One of the functions of gender units is to find ways of working with organisations and individuals in civil society. Government also plans to assist women's organisations through capacity building, training, and the provision of information and resources.

Policy, Information, Research and Training

Gender policy

National
In late 1995 the Reconstruction and Development Programme (RDP) Office initiated the drafting of a National Women's Empowerment Policy. When this Office closed, the responsibility passed to the OSW in the Deputy President's Office. The policy, to be called the National Gender Policy, is now near completion.

Most of the White Papers of government departments refer to gender issues and women's empowerment. For example, the draft Population Policy of the Department of Welfare states

that: "Advancing gender equality, equity and the empowerment of women, while ensuring the ability of women to decide about their own behaviour, are cornerstones of population and development programmes." Six of the twenty major strategies of the Policy are aimed specifically at the girl child or women. The National Programme of Action also specifically lays emphasis on children, and especially the girl child.

Each government department is expected to formulate its own specific gender policy. Where functions are divided between national and provincial levels of government within a sector, liaison forums have been established to develop unified strategies.

A key strategy of the draft Gender Policy of the Department of Justice is a National Women's Justice Programme. This will promote access by women to justice and ensure that the legal system responds to women in an appropriate and affordable manner.

Other departments which have developed draft gender policies include the Department of Land Affairs and the Department of Water Affairs and Forestry. Some departments have said that they need assistance in formulating a policy. This will be part of the capacity building task of the OSW.

Provincial
A number of gender policy initiatives are also underway at provincial level. The Northern Cape Provincial Cabinet has accepted a Gender Equality Bill. The Western Cape Province is developing a Strategy for Gender Equality. KwaZulu-Natal's Office of the Premier is involving civil society in the formulation of a gender policy. The Eastern Cape's Gender Equity Unit in the Premier's Office has initiated a gender policy analysis of key policies and programmes.

Although departments have attempted to address gender discrimination through their major policy documents, not all existing policies have been subjected to a comprehensive review. The brief of the Commission on Gender Equality to review existing and new policies is thus critical.

Gender information and research
At this stage many departments collect data disaggregated by gender and race only in relation to internal departmental matters. For example, all national departments are able to produce profiles of their own employees.

The Departments of Education, Health, Welfare, Home Affairs and Land Affairs also collect disaggregated information on beneficiaries or clients. The Central Statistical Service is establishing a gender desk with assistance from the Government of Norway. One of the primary tasks of the gender desk will be to ensure gender sensitivity in all data collection and reporting of statistics. Another task will be to conduct a time use study which will provide information on paid and unpaid work. Such information will have a crucial bearing on policies relating to the different tasks performed by women and men.

The Departments of Welfare and Land Affairs have developed gender indicators to monitor and evaluate policies and programmes. The Department of Justice will be doing so when piloting their gender policy. The Department of Housing is considering developing such indicators.

Gender budgeting

Women's Budget Initiative

Since late 1995 the Gender and Economic Policy Group of the Joint Standing Committee on Finance has worked together with non-governmental organisations (NGOs) to produce annual Women's Budgets. The two research reports have between them reviewed sixteen of the twenty-six budgetary votes. They have covered cross-cutting issues such as public sector employment, taxation and budget reform. The third research report, which will cover votes not yet reviewed, is due to be launched on the eve of the March 1998 budget.

Among the findings of the Women's Budget Initiative, which are now being used by departments to lobby for policy changes, are:

- Although there are more girls than boys in South African primary and secondary schools, the percentage of girls in tertiary education is much lower than boys. Until this year less than 1% of the Education budget went towards adult basic education in a country in which the majority of those who are illiterate are black women. The amount has now been doubled, but is still tiny. There is hardly any state support for educare. This is key to enabling women to enter the formal economy.

- A new government housing subsidy for those in the lowest income bracket is available to both men and women. However, recipients have to be over 21. This does not acknowledge that half of all women fall pregnant before the age of 20. The policy thus discriminates unfairly against young mothers, who are often desperately in need of housing.

- Up until the most recent budget, over half of the expenditure of the Department of Trade and Industry went towards the General Export Incentive Scheme (GEIS), a financial subsidy to exporters which largely benefits already wealthy white South African businessmen. Only 2% of the Department's expenditure went towards small, medium and micro-enterprises (SMMEs) in which the majority of women are to be found. Even in this category, most women are in the "survivalist sector" which is often not reached in formal government programmes. While GEIS is now being reduced, the amounts saved have not been allocated towards SMMEs.

Gender budgeting in departments

In his budget speech of March 1996 then Minister of Finance Chris Liebenberg committed his department to the development of:

- a gender-disaggregated statistical database;
- gender-disaggregated targets and indicators; and
- a gender-sensitive performance review mechanism.

So far, most government departments have not examined the gender implications of their budgets. Some understand this as referring to spending on salaries and staff benefits of female and male staff.

None of the departments at this stage is able to report on the gender implications of mainstream spending. Some departments - such as Health with allocations for maternal and reproductive health, and Welfare with the Fellowship Programme (see Article 14) - are able to report on spending directly targeting women.

The Department of Sport and Recreation has a series of programmes to accelerate equality between men and women. 16% of its budget for sport development programmes is targeted specifically at women. The Department of Correctional Services has set aside 9% of its prison training budget for female prisoners. This allocation is relatively favourable to women as only 3% of prisoners are women.

In the 1996/7 budget vote the Department of Education specifically allocated a small amount of money for gender equity. However, most of the department's existing gender initiatives are paid for through donor funds. Several of the other departments have also financed their gender initiatives through donor funding rather than their own budget allocations.

Gender and Macroeconomic Policy Pilot Study

In November 1996 Minister of Welfare and Population Development Geraldine Fraser-Moleketi led the South African delegation to the Fifth Commonwealth Meeting of Ministers Responsible for Women's Affairs in Trinidad and Tobago. South Africa volunteered to be one of the two pilot countries (the other is Sri Lanka) for testing methods of integrating gender considerations into macro-economic planning, and budgets in particular.

During May 1997 a Commonwealth team visited South Africa to discuss the pilot with the relevant Ministers, the Department of Finance, the Office on the Status of Women, Commission on Gender Equality and other departments.

An important entry point for the initiative is the new Medium Term Expenditure Framework which involves drawing up three-year expenditure plans. In mid-August the Department hosted a three-day conference to launch multi-year budgeting. The programme included both a presentation and a parallel group discussion on gender and the budget.

The next step in the project is to incorporate gender analysis alongside general discussions of policy into the Budget Review. The first results will thus be tabled on Budget Day in March 1998. Progress will then be reviewed in April 1998 and decisions taken as to how the project should proceed.

Gender training courses

Centralised provision of gender training

The Department of Public Service and Administration has overall responsibility for public service employment. At present the Department does not offer any gender specific courses. It focuses its training on improving productivity and efficiency. Staff are expected to attend gender courses offered by other institutions.

The South African Management and Development Institute (SAMDI) is the central Public Service training college. SAMDI is currently developing proposals for integrating gender training into public service training courses. The Green Paper on Public Service Training and Education also sees SAMDI as researching the needs of target groups, which would include women employees, and publishing regular gender-, race- and rank- disaggregated data on those who receive training.

Departments and provincial administrations have been requested to provide a breakdown of all training courses attended by their staff in the year 1995/96 according to race, rank and gender. The information will form part of the Annual report on Public Service Training.

Among constraints identified in the first Women's Budget study are the fact that less than 1% of the Public Service's budget is devoted to training, compared to the 5% advocated by the Department of Labour. Much of the training is focused on the top management echelon in which there are few women.[1]

Sectoral gender training

Individual departments have generally not yet devised internal gender training courses for staff. However, following the Fourth World Conference on Women in September 1995, there have been a series of gender training workshops for the gender units of line departments and provinces. Many of these were organised by the Department of Welfare, which hosted South Africa's Beijing Secretariat while national machinery for advancing gender equality was being established. The workshops were sponsored by the United Nations Development Programme (UNDP) and Commonwealth Secretariat.

Several educational institutions, such as Public and Development Management at Witwatersrand University and the University of Fort Hare's Education Policy Unit, have organised gender training courses to which individual departments have sent their staff. There have also been some once-off gender training initiatives at provincial level.

Several departments have either instituted, or started planning, internal gender training. Since April 1997 the Department of Land Affairs' in-house Diversity Management Programme has included a component on training and facilitation in Anti-Sexist and Anti-Racist Behaviour. The tenure reform programme of the Department of Land Affairs has also developed a training programme for people within and outside the Department which addresses gender problems experienced in implementation of projects. The Redistribution Directorate of Land Affairs is developing a training programme that will integrate a gender perspective.

The Welfare White Paper proposes a focus on gender issues in the training and reorientation of welfare personnel inside and outside government. Such training will focus, in particular, on the management of violence against women. The Department of Welfare also acknowledges the importance of gender training for senior management and policy-makers.

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[1] De Bruyn, J. 1996. "Public Service" in D Budlender. *The Women's Budget*. IDASA: Cape Town.

The Department of Water Affairs and Forestry, assisted by the Commonwealth Secretariat, has a pilot project involving integrating gender training into the drafting of the department's gender policy. The Department of Health will introduce gender training once its gender desk is fully operational. A non-governmental organisation, the Law, Race and Gender Research Project, conducts race and gender sensitization training for magistrates and prosecutors attending courses at the Department of Justice's Justice College.

ARTICLE 4: ACCELERATION OF EQUALITY BETWEEN MEN AND WOMEN

Adoption by States Parties of temporary measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail, as a consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory.

The Public Service

The table below gives the race and gender composition of the Public Service in December 1996.

Public Service as at 31 December 1996

Class	African		Coloured		Indian		White		Total	
	Women	Total	Women	Total	Women	Total	Women	Total	Women	Total
LowerSkill	90146	224305	11316	23978	1852	4805	7103	15432	110417	268520
Skilled	87893	195440	16941	27958	3458	10657	46839	70771	155131	304826
SkillProd	196197	351112	27550	49488	9288	21360	76382	148480	309417	570440
SkillSprvis	3357	12613	289	2194	359	1658	3921	18866	7926	35331
Mngment	163	1083	19	94	22	116	174	2228	378	3521
SnrMngmt	23	148	2	14	1	12	4	124	30	298
	377779	784701	56117	103726	14980	38608	134423	255901	583299	1182936

The table shows that:

- 583 299 or 49% of public servants are women;
- Most women (309 417 or 53% of the total) are employed in the highly skilled production category in which nurses and teachers are found. Further analysis shows, however, that women are in the lowest ranks of those categories (women teachers, for example, predominate at the primary school level and are under-represented among principals, deputy principals and department heads) (See Article 10);
- There are only 30 women out of 298 (or 10%) at senior management level. This represents a substantial increase from 3% after the elections;
- Four out of 25 (16%) director generals - the most senior level in the civil service - are women; and
- Race imbalances persist - for example, 42% of skilled supervisors, 58% of management and 40% of senior management are white men.

Gender analysis of the personnel budget of the Department of Housing bears out assertions that the majority of women are employed at the lower levels. The table shows that men receive 55% of salaries; 58% of housing subsidy and 84% of allocations to motor allowances (a benefit extended only to senior management.) The position would be similar for many other departments.

Department of Housing: Personnel Budget

	Women	Men	difference
Salaries	R5 186 024 (45%)	R6 282 080 (55%)	10%
Housing subsidy	R223 16[illegible] (42%)	R310 093 (58%)	16%
Motor Financing	R153 0[illegible] (16%)	R727 644 (84%)	68%

Review of legislation and regulations

After the elections, the then Office of the Public Service Commission undertook a comprehensive review of regulations with the aim of eradicating all discriminatory practices within the public service. The exercise resulted in the Public Service Act (1994) as well as amendments to the Public Service Staff code and other measures. The measures were all recast in non-sexist language.

The amendments included the removal of previously discriminatory provisions such as the fact that the Staff Code did not recognise customary marriages, and that public service regulations discriminated between benefits paid to spouses, or between housing and other allowances available to women and male employees.

The Labour Relations Act (1995) was extended to cover the public service in 1996. The Act states that no-one may be discriminated against on the basis of family responsibility, marital status or sexual orientation. Such discrimination constitutes an unfair labour practice. The Public Service will also be covered by Employment and Occupational Equity legislation being prepared by the Department of Labour (see Article 11).

Targets for redressing the imbalances

One of the primary objectives of the 1996 White Paper on the Transformation of the Public Service is the creation of a "genuinely representative public service which reflects the major characteristics of South African demography". More specifically, it set as its key targets:

- within four years, a 50% representation of blacks at management level; and
- during the same period, at least 30% of new recruits to the middle and senior management echelons are to be women.

Critics have pointed out that a 30% target for new recruits may be elusive at a time when the Public Service is being downsized. Already, however, there has been an increase in the representation of women in senior management from 3 to 10 percent since the 1994 elections.

All departments are able to provide staff profiles by gender and rank, indicating the extent to which such data is being systematically collected. These profiles show that the position differs across sectors.

In departments such as Welfare which historically employed more women than men, women constitute 56% of senior management. While this is encouraging, the acid test is in departments which traditionally were male-dominated. The examples below illustrate the difficulties.

The Department of **Agriculture** has a limited pool of women to draw into decision-making positions. On the one hand there were laws which prevented African women from obtaining and owning land. On the other hand white women were never seen as agriculturalists. The Director-General of Agriculture is a woman, but there are few other women in professional posts. The Department will be launching special programmes to bring about agricultural awareness among black people and will actively encourage women to consider agriculture as a profession. The Department has launched an "Award for Women in Agriculture" as a stimulus for recognising the contribution which women make.

Similarly the Department of **Water Affairs and Forestry** has identified that women have traditionally been discouraged from studying technical courses. Yet the majority of posts in the Department demand technical qualifications, for example in engineering and geo-hydrology.

In its strategic planning, the Department of **Defence** affirmed the equal right of women to serve in all ranks including combat roles. However, to date very few women are in management positions as historically Defence was dominated by white males.

Recruitment of white women into the Department of **Safety and Security** occurred for the first time in 1972; of coloured and Indian women ten years later and of African women even later. As a result there are few senior women in the Department. In addition, women were employed in administrative and so-called "soft jobs" or relegated to insignificant positions. Many women have internalised the stereotypical role designation, and find it difficult to break through the imposed ceiling. Inadequate or absent gender training and assertiveness training, and the male-dominated culture of the police further entrenches the inferior position of women.

The Department of **Sport and Recreation** was created in 1994 and inherited staff from another departments. Initially women comprised 49% of the staff complement. This has since increased slightly to 52%. However, no women are employed above the level of Deputy-Director.

In 1996 the Department of **Trade and Industry** deliberately appointed three women in line functions which are "unusual" for women i.e. motor assembly, patent and trade marks, and regional industrial development.

Transformation Units

The White Paper proposed the establishment of Transformation Units in all national and provincial departments. The tasks of these Units included the promotion of greater representativeness. By February 1996, two thirds of the national departments had established Special Programmes for this purpose. The Department of Trade and Industry has gone further, and identified 18 people, representing all the chief directorates, to act as change agents. In addition, women in several departments have established gender fora. These fora act as advocacy and support structures for women employed in the department.

Affirmative Action in Government Departments

Policies to promote the advancement of women in government are designated as Affirmative Action, Employment Equity, Accelerated Development or Equal Opportunities by different departments.

All departments have active Transformation Processes. Strategies and internal arrangements differ. For example, some departments stipulate short-listing women candidates for posts, and specify that selection panels should always include women. Many departments have held workshops, conferences and other consultative forums to inform policy formulation and to monitor implementation. Some departments have successfully negotiated their policies with departmental bargaining chambers.

Eleven out of 28 government departments have an official policy on the acceleration of equality between women and men. They are the Departments of Arts, Culture, Science and Technology; Constitutional Development; Correctional Services; Defence; Environment and Tourism; Foreign Affairs; Justice; Mineral Affairs and Energy; Safety and Security; Water Affairs and Forestry; and Welfare. In other departments, such as Agriculture and Land Affairs, policies are being completed. The remainder have not reported any substantial progress in this area. The Department of Water Affairs and Forestry is the only one which notes that its Employment Equity Policy is registered with the Department of Public Service and Administration.

Provincial initiatives

The Gauteng (Provincial) Women in Government Forum, which meets once every six weeks, aims to create an arena for women in government to share experiences and build awareness of the rights of women as workers and citizens. In Gauteng, thanks largely to the advocacy role of this forum, the proportion of women at management level has been increased from 1% to 25% in the period since the April 1994 elections. This achievement has been accompanied by management training for women in senior positions, and a gender training component in new senior management training courses.

The Gauteng Provincial Public Service has spearheaded an initiative to carry out a study on what prevents women rising to more senior levels in the Public Service. Their brief includes the regulatory framework, human resource development policy, conditions of service and how they impact on women (e.g. inflexible working hours), opportunities for promotion and career development, how people are selected for training, and attitudes towards the promotion of women among senior civil servants, including racial and gender stereotyping

Employment conditions within the Public Service

General conditions of service of public servants are equally applicable to women and men employees. There is, however, room for improving the service conditions surrounding the reproductive rights of women and the attendant caring responsibilities and social roles.

Retirement and pension

The mandatory retirement age for both women and men employees in the Public Service is 60 years. However the common voluntary retirement age among both women and men employees is 55 years. Up until recently women and men employees contributed different amounts towards the Government Employment Pension Fund. The pension laws have since been changed. Every government employee now contributes at the rate of 7,5% of pay.

The definition of a dependent in the Government Employees Pension Law (1996) includes any person married to a member or pensioner of the fund. It includes those married by indigenous, customary or religious law. It allows spouses of both female and male public service employees to benefit from the pension plans held by their husbands and wives. It does not, however, allow the partners of gay and lesbian individuals to claim benefits.

Medical benefits
Public servants can choose whether to join a medical scheme or not, and which scheme they join. The state as employer contributes two-thirds of the membership fees, limited to a prescribed amount negotiated annually with employee organisations. Financial assistance continues after retirement or termination of service. The extent of assistance is dependant on age and years of service. This could incorporate some gender bias where women have interrupted their service on account of childbearing and childrearing.

Housing allowances
Any public servant with an outstanding registered mortgage bond may apply to participate in the home ownership scheme. Any public servant can apply to the guarantee scheme for assistance in getting a housing loan without a cash deposit. The government has entered into agreements with certain financial institutions that it will guarantee a maximum of 20% of the housing loan for which a person qualifies. The maximum guarantee amount is based on the person's basic salary. To the extent that women are under-represented at the higher income levels in the public service, this will have a gender bias.

Leave
Ordinary vacation leave benefits do not distinguish between women and men.
There are no specific provisions for paternity leave. Men are expected to use their vacation leave credits. Similarly, women are expected to use their vacation leave credits for ante- and post-natal visits, as there are no formal time-off provisions.

All women employees qualify for up to 84 days maternity leave on full pay, to a limit of two confinements, after twelve months uninterrupted service. Maternity leave is available when women adopt, but not for those who foster or are not formally recognised as parents. Women who take maternity leave are not obliged to return to the public service. The period of maternity leave is regarded as continuous service. There are, however, no provisions for career breaks or child care leave.

Baby and child care
There is no public service-wide provision for nursing breaks. Parents must usually make their own private arrangements for after-school arrangements for older children.

The Public Service makes provision for the establishment of creche facilities which will be privately run but subsidised by government. The Departments of Housing and Health, and the National Intelligence Service are the only departments which provide child care facilities. Those of the National Intelligence Service operate only during the official hours of 7h30 to 16h30, causing inconvenience to those who have to work longer. Transport to the creche is not provided, although it is located some distance from public transport. Staff who are not members of the car allowance scheme are disadvantaged by the lack of transport.

The Departments of Water Affairs and Forestry, and of Land Affairs, are investigating the possibility of doing so. The Department of Trade and Industry has included a creche in the plans for its new building. In the case of Health, the creche is not in the same building. This creates problems for the parents.

The large scale absence of child care facilities reflects the fact that the civil service is still largely male dominated, particularly at senior management level. Because men usually do not share the responsibility of child care, lobbying for child care facilities has not been a priority. The absence of facilities poses many problems for women employed in the public service, and blocks their advancement.

Hours of work

The working hours for most departments are 7:30-16:00 or 8:00-16:30. The hours mean that women have to drop children off very early in the morning and have to leave promptly to collect them. This does not fit in with the schedules of senior management which are characterised by early morning meetings and briefing sessions, and late afternoon or evening meetings.

Many departments have flexi-hours, but usually these only allow for half an hour's variation in starting or finishing times. In some departments, once times have been arranged, they are considered fixed. This makes no allowance for emergencies that women might have to deal with. In the South African Police Services, where flexi-time and child care have not yet been introduced, women who have dependent children cannot be employed in the more functional stream because they have shifts incompatible with the opening times of private creche facilities.

The Private Sector

In mid-1997, 88 directorships of companies listed on the Johannesburg Stock Exchange were held by women, more than double one year previously. However 68 of these directorships were held by white women. And women still accounted for under 5% of all directors of listed companies.[2]

South Africa's occupational and sectoral employment patterns show the same gendered patterns which are common around the world. In South Africa, however, these are exacerbated by racial discrimination and disadvantage which sees black women generally occupying the least prestigious and lowest paid positions (see Article 11). The Department of Labour's Green Paper on Employment and Occupational Equity proposes legislation which will promote greater representation of those disadvantaged by race, gender or disability; and prevent any form of discrimination in the workplace. The proposed legislation, like the Labour Relations Act, will cover both public and private sector employment. The implications are discussed in greater detail in Article 11.

[2] Information supplied by McGregor Information Services

ARTICLE 5: SEX ROLES AND STEREOTYPING

State parties shall take all appropriate measures:

(a) to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority of either of the sexes or on stereotyped roles for men and women;

(b) to ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interests of the children is the primordial consideration in all cases.

> *It is a sad fact that one of the few profoundly non racial institutions in South Africa is patriarchy. Amongst the multiple chauvinisms which abound in our country, the male version rears itself with special equal vigour in communities. Indeed, it is so firmly rooted that it is frequently given a cultural halo and identified with the customs and personalities of different communities. Thus to challenge patriarchy, to dispute the idea that men should be the dominant figures in the family and society, is to be seen not as fighting against the male privilege but as attempting to destroy African tradition or subvert Afrikaner ideals or undermine civilised and decent British values. Men are exhorted to express their manhood as powerfully as possible, which some do by joining the police or the army or vigilante groups and seeing how many youths they can shoot, whip, teargas, club or knife, or how many houses they can burn down or bulldoze, or how many people they can torture into helplessness. Patriarchy brutalises men and neutralises women across the colour line.*[3]

Patriarchy is a philosophy deeply embedded in the customs, cultures and religions of all South Africa's diverse peoples. Customs, cultures and religions, in turn, determine how children are socialised into seeing, experiencing and behaving in the world. It is hardly surprising that stereotypes of women abound in the country's language, education system, media, popular culture and everyday practices.

In 1994 a Johannesburg-based market research agency called Market Research Africa surveyed the views of 2 439 urban adults aged 16 years and over on the issue of women's rights. They found that:

- 93% of the sample agreed women should get the same pay rates as men, and 90% agreed that women should get the same promotions as men, but only 76% felt that women have a right to say no to sex;
- Only 66% of respondents felt that "some parts of traditional culture should be changed to allow women the same rights as men";
- One third felt that women cannot decide for themselves on abortion or how many children to have. This included 22% of the women sampled; and

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[3] Sachs A 1990. *Judges and Gender: the Constitutional Rights of Women in a Post Apartheid South Africa: Protecting Human Rights in a New South Africa*, Oxford University Press: Cape Town. Sachs is now a judge in the Constitutional Court.

- 10% condoned a man beating a woman or his wife. This included 15% of male respondents and 4% of female respondents.

The agency's director commented that a major problem evident in the findings is the inclination of South African women to deny themselves rights. He commented in particular on the fact that the survey reflected only urban [illegible] hence probably more liberal views".

The starting point for change is South Africa's new Constitution. The Constitution recognises culture and tradition, but gives precedence to the equality clause in the Bill of Rights. These "paper" changes will only start to make a difference when all society is mobilised towards a different vision of the role of men and women.

The Constitution also outlaws discrimination on the basis of sexual preference. In practice, however, lesbian and gays are discriminated against in many spheres. The law itself also discriminates to the extent, for example, that lesbian and gay marriages are not recognised.

There are many measures that the government has taken and can take to promote societal change, such as changes in the education curriculum, and the establishment of a Commission on Gender Equality which has a major advocacy and public education role. But there are also limitations on the extent to which the state can effect changes in areas such as the media, religion and culture without infringing on fundamental freedoms. Such profound changes require a society-wide crusade for which the government can only be a catalyst.

Custom, tradition and religion

Custom

Across all ethnic groups, men are generally deemed to be heads of households and are the patriarchs whose authority must be respected. Whereas men are in a powerful position, women are expected to be subordinate, accept domination and not question decisions made by men. In 1992, a cross-section of South African women working in a collective to produce the journal "Agenda" met to discuss culture, tradition and gender. They concluded:

> *South Africans often speak about traditional African cultures, Indian cultures and Western cultures placing emphasis on differences and distinctions. There is indeed diversity, but during our workshop we observed that we share several cultural similarities with regard to gender-related beliefs and roles. While there are differences in specific practices, there are gender related features that our backgrounds have in common; for example the evidence that many women are undervalued and anything associated with women seems to be evaluated negatively. Another common theme is that from an early age women are held responsible for child rearing and household work.*[4]

In some traditional rural societies, this stereotype forces a woman into a submissive position where she has little or no control over her own life or body. She is seen as the property of her husband, father or son. She is expected to bear and raise children, and confine herself to matters of the household. In so-called "civilised" societies, women are manipulated by social and religious pressures to accept and even defend their subordinate role in society. The

[4] De la Rey, C. 1992. "Culture, tradition and gender: Let's talk about it" in *Agenda* 13:79-80.

"volksmoeder" (mother of the nation) ideology prevalent among Afrikaners shows how ideas which praise and idealise women for certain commendable characteristics can be used to stereotype them.

Tradition

A number of traditional practices are seen by some people as reinforcing the inferior status of women. For example:

- *Lobola*: Lobola (bridewealth) was originally a way of bonding two families. Today many women feel that some men exploit the meaning of lobola by insisting on marital fidelity for women but not for men, and by treating their partners as commodities.
- *Polygamy*: This practice is dying a natural death, partly for economic reasons. Some people argue that polygamy is not inherently less equitable than monogamy. Others feel that as long as the man has the choice of several wives, while the woman is forbidden from having more than one husband, the practice perpetuates the stereotype of female inferiority.
- *Witch hunting*: This disturbing practice continues to haunt parts of South Africa, especially the Northern province. While some men have been killed in such "purges", media reports suggest that the majority of those decreed witches and tortured to death are women. Further research is required into this practice.
- *Female circumcision and prenuptial checking of a woman's virginity*. These do not appear to be widely practiced in South Africa. Nevertheless, further research is needed to confirm this.

Religion

Religion plays an important role in the lives of most South Africans. About 15% of South Africans are traditionalists, 80% Christians, and most of the remainder are Hindus, Muslims, or Jews. Some people feel that the subordination of women has been reinforced by all South African religions. Others feel that a different interpretation of their religion promotes gender equality and respect for women and men.

Women are by and large absent from leadership positions in religious organisations. In the Roman Catholic Church the controversy regarding women priests is still raging. In other churches, such as the Anglican church, women have been ordained, but their ordination has led to rifts.

Reform of discriminatory laws and customs

The South African Law Reform Commission has initiated discussion on harmonising customary and civil marriages, with a view to recognising customary marriages and removing any remaining discriminatory practices (see Article 16). It is also looking into the issue of discriminatory aspects of Muslim Family Law (see Article 16).

Among the tasks of the newly constituted Commission on Gender Equality is to evaluate "any system of personal and family law or custom; any system of indigenous law, custom or practices or any other law", with a view to making recommendations to parliament. One of the first activities planned by the Commission is a series of hearings on culture, tradition and religion.

South African women are speaking out against those aspects of tradition which they find oppressive. An example is the following excerpt from an opinion piece by the Chair of the

Parliamentary Women's Group, Nozizwe Madlala-Routledge. The article was published in the Sunday Times soon after the inauguration of the National Council of Traditional Leaders:

> *As we reclaim our African identity and pride and as we redefine who we really are ...we must look honestly at how we reconstruct our society such that everyone enjoys the rights granted by our new laws and democracy ... Some people have argued that African tradition was not as oppressive to women. This may be so, but what we do know is that it is not. We also know that African law has for generations been pervaded by the principle of patriarchy, the status enjoyed by all senior males in society. With the distortion of some customs and practices over the years, oppressive rules were entrenched.. While other institutions are adapting to the principle of gender equality, the appointment of traditional leaders has not adapted so that women are represented in proportion to their numbers in society. They are relegated to the role of caring for children, tilling the land, preparing food and ululating at functions. If this institution is to survive and have a meaningful place, it must honestly address the issue of women's oppression and gender equality.*

Women are also drawing distinctions between religious ideals and anachronisms which have been used to subordinate women. Churches are engaged in a decade of solidarity with women in which the patriarchal foundations of the Christian religion are being questioned. And at an Information and Evaluation workshop held in May by the Commission on Gender Equality, the gender desk of the Islamic Youth Movement reported on how it has launched an information and education campaign to emphasise the egalitarian aspects of the religion, which override its patriarchal practices.

Language

At present the use of inclusive language is often still ridiculed. The practice of using he/she is seen as cumbersome. It is argued that the pronoun "he" includes both sexes. The Gender Unit of the Department of Water Affairs and Forestry examined internal departmental documents, including policy, daily correspondence and personal communication, and found that most contained exclusionary and sexist language. Examination of the documents of most other departments would almost certainly find a similar position. The Constitution represents a breakthrough in its use of non-sexist language.

Education

The majority of school text books still promote gender stereotypes. This is reinforced by the roles of boys and girls at schools. For example:

- girls clean the classroom and boys do the garden;
- during experiments, boys often perform the experiments while girls record the results; and
- during mapping exercises in geography, boys carry the equipment and do the mapping while girls record the results.

Initiatives to combat sexism and gender bias

The Education White Paper draws attention to a range of disparities within the education system between girls and boys, women and men. The Ministry of Education has established a Gender Equity Task Team which is advising on the establishment of a permanent Gender

Equity Unit within the Department. The National Curriculum Development Committee aims to eradicate gender stereotypes from education materials in the new curriculum. This curriculum will be launched in 1998, and extended throughout all levels of school by 2005.

The Science Committee in Education is piloting a micro-scale teaching approach with 300 schools. The approach is seen as girl-friendly and minimises competition amongst boys and girls. Experiments are performed in small groups and everyone gets a meaningful role to play. The interim Guidance syllabus provides for teaching on how to deal constructively with violence and conflict.

Following the example set by the Constitution, the government is endeavouring to ensure that gender-sensitive language is used in all its key documents and publications, as well as in public institutions.

The Constitution also establishes eleven official languages for the country, rather than only English and Afrikaans - the languages spoken by most whites - of the apartheid era. In practice English is used far more than the other ten languages in public life and public documents. Cost and time considerations make it difficult to treat all languages equally. But the Constitution supports those who need to be served by government in a language they can understand. Copies of the new Constitution were widely distributed throughout the country in all eleven languages, and also in braille.

The Media, Advertising and Censorship

Portrayal of Women in the Media

Gender stereotypes are reflected in the media and advertising. In a submission to the Commission on Gender Equality during its Information and Evaluation Workshops in May 1997, the Institute for the Advancement of Journalism (IAJ) made the following observations:

- *Images*: Women are often simply not seen in the South African media, and advertising agencies "skew the bias towards decorative images of women even further. Some women, girl children, the old, women with disability, rural women, are almost completely invisible";
- *News Values*: "One reason for the invisibility of certain categories of women is the refusal by the South African media to accept 'development' as a national news story";
- *Language*: "Women are all too often girls in the South African media. Important female figures are the wives of someone else. When actress Dorothy Lamour died, the British Broadcasting Corporation called her a 'talented comedian and actress'. The South African Broadcasting Corporation described her as 'the sexy sidekick of Bob Hope and Bing Cosby'";
- *The glass ceiling*: The South African media is essentially an old (white) boys' club. In management courses run by the IAJ, the proportion of women participants is always lower than 25%.

Attempts to write an explicit commitment to gender equality and against sexual harassment into the IAJ's mission statement, and to hold training courses on gender and the media at the IAJ have been dismissed as irrelevant.

A study[5] carried out by the Community Agency for Social Enquiry (C A S E) looked at front page coverage or prime time viewing of three key daily newspapers; five radio stations and three public television channels over the period 1 to 21 July 1996.
It found that:

- fewer women are reporters of media items than men;
- male reporters are more likely to report on political and labour issues than females;
- 82% of those shown in the media in the study were men. Men are more likely to be talked about, interviewed or represented doing diverse every day actions;
- the most significant difference in the identities ascribed to men and women was the extent to which women featured as victims; and
- with regard to subject matter, 93% of those represented in the political category were men; and
- the nature of "women's issues" covered was very similar to those of a study on "The Portrayal of Women in the South African Electronic Media" carried out by Media Watch. The findings suggest that violence against women; health and reproductive issues; as well as women's empowerment, receive the greatest attention by the mainstream media.

The C A S E study also examined 163 advertisements. It found that:

- 31% of people in advertisements were female, compared to 18% in non-commercial media items, reflecting the fact that women are the largest single consumer group; and
- women were more likely to be represented in the domestic sphere, as housewives (24%), daughters (11%) and mothers (9%). On the other hand men were generally shown in the public sphere as decision-makers (15%) political personalities (13%) and professionals (8%).

Violent and sexually offensive films and magazines

The Indecent or Obscene Photographic Matter Act (1967) makes it an offense to possess any indecent or obscene photograph or film. The Publications Act (1974) gives powers to any person authorised by the Minister of Post and Telecommunication to enter any premises and examine and take away "undesirable" publications or objects. A committee appointed in terms of the Publication Act will not approve a film which it finds undesirable. Violent and sexually offensive magazines are considered undesirable.

In October 1996 parliament passed the Film and Publications Act (1996). The Act allows adults access to a wide range of material which would previously have been forbidden. However, it attempts to protect children and the dignity of adults, and women in particular. It provides for the prohibition of the showing, distribution or advertising of material judged to be pornographic, sexually explicit or degrading.

Gender sensitising the Media

The South African Constitution guarantees freedom of expression. The Department of Communications is committed to promoting women's equal access to all areas and levels of the media, including education, training, management, programming, ownership and employment. The Department also views the sexist depiction of women in the media as discriminatory.

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[5] Segel K, Everatt D & Jennings R. 1995. *"Where are the women?" Analysing the representation of women in the media.* Community Agency for Social Enquiry: Johannesburg.

The South African Broadcasting Corporation (SABC)

The government owns the SABC, but it is largely independently run. The Corporation has adopted a policy on women. The policy sets out the following guidelines:

- Programmes must reflect in a non-stereotypical manner the place that South African women occupy in society, recognise the roles they play in different spheres, as well as their intellectual and emotional equality;
- Programmes must not reflect cultural and historical circumstances in ways which perpetuate stereotypes and past misrepresentations;
- The SABC will ensure that notions of exclusively "women's" and "men's" issues are not perpetuated;
- Sexist language will not be used;
- The SABC will encourage suppliers and advertisers to adhere to these principles;
- Training programmes will be developed to sensitise and educate all employees, particularly those in decision-making positions, on ways of ensuringe successful implementation of the policy.

The Department of Communications is also discussing with the SABC ways of ensuring increased coverage of the crime of women and child abuse.

Staff of the SABC have formed their own Women's Fora to lobby for change. The C A S E study quoted above was commissioned by the SABC Women's Forum. That the study found that 21% of front page and prime time coverage was on the empowerment of women, compared to 4% on beauty and fashion is an encouraging sign. As C A S E comments: "It suggests that pressures are being successfully exerted on SABC programmers. There is still a long way to go before women and men have equal air time, but the basis has been laid."

Independent Broadcasting Authority (IBA)

South Africa has one private television channel and several private radio stations. These are regulated by the Independent Broadcasting Authority (IBA). The IBA has stated its commitment to ensuring the ownership and control of broadcasting services by people from historically disadvantaged groups. It is in the process of formulating a Gender Equity Policy.

Gender representivity has been one of the considerations in the issuing of licenses. Approximately 80 community radio station licences have been issued to grassroots community groups. Some of these are in rural areas, and at least one - in Moutse, Mpumalanga - is run and managed by a woman's group. The government is committed to providing resources to assist with training for community radio stations in which women play an active role.

General media

Most of the print media in South Africa is independently owned. Much of the regulation of the media is in the form of self-regulation. Gender is beginning to feature more prominently in the mission statements of media organisations.

While the media must largely reform itself and lead rather than react to societal change, it was suggested by the IAJ that the government could take a more proactive role, through strong gender provisions in a Press Council and Advertising Standards Board "which could take up complaints and mete out more than a gentlemanly rap over the knuckles".

A new Press Ombudsman replaced the old Press Council on 1 July, 1997. This body will administer an expanded press code and will provide a quick means of settling disputes between the public and the press. The Press Ombudsman provides an avenue for women's organisations to lodge complaints over the manner in which women are portrayed in the media.

ARTICLE 6: SUPPRESSION OF THE EXPLOITATION OF WOMEN

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Prostitution

The Sexual Offences Act (1957) makes prostitution, as well as any involvement in a brothel, an offence. It is regarded as discriminatory by many people.

There are a wide variety of views on prostitution. Many of these views are influenced by cultural background, religious beliefs and life experiences. Some constitutional rights may be violated by current laws on prostitution. These rights include:

- the right to equal protection and benefit of the law;
- the right to have one's dignity respected and protected;
- rights to freedom and security of the person;
- the right to privacy;
- the right to freedom of association; and
- the right to choose one's trade, occupation or profession.

In its commitments to implementing the Beijing Platform for Action, the Department of Justice undertook to "review sexual offences legislation to decriminalise, where necessary, and to ensure greater protection for women". The Justice Vision 2000 document and the draft gender policy also refer specifically to decriminalising prostitution.

In August 1996 a twenty-member delegation of South Africans, led by Minister Fraser-Moleketi, attended the First World Congress against the Commercial Sexual Exploitation of Children, held in Stockholm.

In November 1996 the Gauteng provincial Ministry of Safety and Security prepared a draft policy on Sex Work. The document was the result of broad consultation. It recommends a series of measures to prevent child prostitution and trafficking in human beings, but proposes decriminalisation of adult sex work.

A detailed report entitled "Decriminalisation of Commercial Sex Work in South Africa - An Exploratory Survey" has been produced by a group of agencies in KwaZulu-Natal which includes Lawyers for Human Rights and the Pietermaritzburg AIDS Training, Information and Counselling Centre. This report also recommends the decriminalising of prostitution. However, it also recommends thorough research into the issue before new laws are passed.

There has been much publicity recently around cases in which parents and other adults sell the sexual services of young children. Such shocking situations confuse debates around the issue of adult women (and men) participating in a commercial sex industry. Spokespersons for the industry will need to be identified if there is to be useful public debate. In Cape Town, an organisation called SWEAT represents workers in the sex industry.

Traffic in women

The Sexual Offences Act makes it an offence for South Africans to exploit women and traffic in women in the country. There is, however, no explicit legislation controlling "sex tourism" or trafficking in women across borders of South Africa.

ARTICLE 7: POLITICAL AND PUBLIC LIFE

State parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and in particular, shall ensure to women, on equal terms with men, the right:

(a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

(b) to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

(c) to participate in non governmental organisations and associations concerned with the public and political life of the country.

Under the new Constitution all South Africans over the age of 18 are eligible to vote and to be elected. In the 1994 elections, the adoption of a quota by the now-ruling African National Congress led to a dramatic increase in the representation of women in parliament. South Africa is now among the top ten countries in the world in this regard. The women elected at this and other levels have proved their strengths both in terms of numbers and the quality of their contribution.

The fervour to increase the representation of women tapered off in the subsequent local government elections. There are suggestions that many women parliamentarians will not run for a second term, and that different electoral arrangements in 1999 may not be as favourable to women as in the first democratic elections. These are cause for concern.

Women are still under-represented in other areas of public life. As part of its affirmative action policy, the government has set targets for increasing the representation of women in the Public Service - the domain in which it has the most control. The Department of Labour's new Employment Equity legislation aims, in part, to increase the representation of women in decision-making positions in both the public and private sector.

Parliamentary representation

South Africa emerged from international isolation with the holding of its first democratic elections in April 1994. The elections were contested on the basis of an Interim Constitution agreed upon in the course of multi-party negotiations that spanned nearly three years. Women scored a significant victory in the requirement, during the final stages of the negotiations, that each delegation to the negotiations have at least one woman representative.

Under the terms of the interim constitution, the 1994 elections were held on the basis of a proportional representation system in which seats were allocated to parties according to their percentage of the vote. The elections were for a National Assembly (comprising 200 seats from regional lists submitted by political parties) and a 90 seat Senate (consisting of ten senators from each of the nine provinces). Elections for the nine provincial legislatures were held simultaneously with the national elections.

In 1992 the ANC held its first national conference inside the country after many years in exile. At the conference a strong women's lobby succeeded in pushing through a resolution that at least one third of the party's candidates in the first democratic elections should be women. Largely as a result of this provision, 111 out of the 400 National Assembly seats, or 27% of

the total, are currently held by women. This compares with less than 3% prior to South Africa's first democratic elections.

Of the 111 women MPs, 20 are from opposition parties: nine from the National Party, nine from the Inkatha Freedom Party, one from the Pan Africanist Congress (PAC) and one from the Democratic Party.

Women in the National Assembly

Party	Seats	Women
African National Congress	252	90
National Party	82	9
Inkatha Freedom Party	43	10
Pan Africanist Congress	5	1
Democratic Party	7	1
African Christian Democratic Party	2	0
Total	400	111

A similar pattern is reflected in the provincial legislatures in which women comprise 102 (24%) of the 425 members.

Women in Provincial Parliaments

Province	Seats	Women
Gauteng	86	25
Western Cape	42	10
Kwa Zulu Natal	81	11
Northern	40	11
Mpumalanga	30	6
North West	30	11
Free State	30	7
North Cape	30	7
Eastern Cape	56	14
Total	425	102

Each province put forward ten senators in the elections to the senate. Here representation of women tapered off to 17 out of 90, or 18%. Only two of the senators were from the opposition - one each from the National Party and Inkatha Freedom Party.

In the first two years after the elections, the National Assembly and Senate doubled as a Constitutional Assembly which finalised the Constitution adopted in May 1996. The new Constitution replaced the Senate with a National Council of Provinces consisting of 54 permanent representatives and 36 special delegates to be nominated from time to time by the provincial legislatures. The move has led to a reduction in the proportion of women representatives. The National Council of Provinces has only eight women representatives (15% of the total). All these representatives are from the ANC.

Decision-making positions in parliament

Both the Speaker and Deputy Speaker are women. The Speaker of the Free State legislative asembly is a woman. The deputy speakers of Gauteng, Northern Province, Mpumalanga and Western Cape are women. Eight of the chairpersons of select committees in parliament are women.

Institutional gender framework in parliament

Three groups have been established in parliament to strengthen women parliamentarians and to ensure that gender issues are systematically taken into account in all legislation.

The Ad Hoc Joint Committee on Improvement of Quality of Life and Status of Women

This body includes women and men representatives from all parties. It was constituted in August 1996 with the following terms of reference:

> *to monitor and oversee progress with regard to the improvement of the quality of life and status of women in South Africa, with specific reference to the government's commitments in that regard made in Beijing, and with regard to the provisions of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The Committee has the power to take evidence and call for papers.*

Among tasks which the Committee has undertaken or set itself are:

- assessing the inputs into South Africa's first CEDAW report, and alerting Committee Chairs to the commitments made by the government in terms of CEDAW and the Beijing Platform for Action;
- analysing the budget to assess the extent to which various departments use their budgets to prioritise and implement provisions which would lead to an improvement in the lives of women; and
- identifying priorities for improving the quality of life and status of women within existing legislation and proposed legislation, and identifying any gaps which might exist.

The Women's Empowerment Unit (WEU)

The WEU is a project of the Speakers Forum, the body which brings together speakers from the national and provincial legislatures. The WEU aims to identify and address specific factors which hinder women from participating fully in the law making process. A small office is being set up in the office of the Gauteng Deputy Speaker who chairs the Speaker's Forum sub-committee on the WEU. This office will initiate a training needs assessment and design programmes around these needs. A three year project funded by Swedish International Development Co-operation Agency (SIDA), the WEU will also offer comprehensive training to new MPs and Members of Provincial Legislatures (MPLs) after the 1999 elections.

The Parliamentary Women's Group (PWG)

The PWG is a multi-party women's caucus founded in 1994 with the objective of making the environment in parliament more gender sensitive. Areas of activity include:

- institutional transformation: making parliament a more gender sensitive environment;
- capacity building: working with the WEU in skills training;
- lobbying and caucusing around key legislation for women; and
- assisting the provinces in establishing similar structures.

Gender machinery in provincial legislatures

At present, most of the women's caucuses in the provinces function on an informal basis. A few provinces have standing committees on gender, or sub-committees which address gender issues.

Impact of Women Parliamentarians

The Constitution

As members of the Constitutional Assembly, women parliamentarians played a key role in ensuring specific provisions for gender equality; affirmative action; freedom and security of the person; socio-economic rights; and the provision that the equality clause in the bill of rights take precedence over contradictory provisions in customary law (see Article 2).

The budget, legislation, and international conventions

A report commissioned by the Speaker on "What the SA Parliament has done to improve the quality of life and status of women in SA" - released on 8 March 1996 - highlights the many achievements of women parliamentarians.

These include:

- support by the Joint Standing Committee on Finance for the Women's Budget initiative, a joint initiative of the Gender and Economic Policy Group of that sub-committee and two non-governmental organisations, the Institute for Democracy in South Africa, and the Community Agency for Social Enquiry;
- ratification of CEDAW, without any reservations, on 15 December, 1995;
- the enactment of legislation establishing the Commission on Gender Equality, a body with few parallels internationally, which has widespread powers to ensure that the constitutional provisions for gender equality are realised;
- recognition of 9 August - the anniversary of the historic march by women against pass laws during the apartheid era - as a national holiday. While South Africa celebrates international women's day on 8 March, the South African Women's Day on 9 August is one with which women around the country identify more closely. 9 August has become an important occasion for reminding the government of its commitment to gender equality under the Constitution and CEDAW;
- introduction of separate taxation for married men and women; and
- provisions for ownership by women in land and housing legislation.

Subsequent to the publication of the above report, women parliamentarians have played a critical role in lobbying on other key gender issues. On some of these issues there were divergences of views between women in different political parties, and even within the same parties. Some of the key achievements have been the passing of Termination of Pregnancy Act (see Article 12), arguably one of the most important achievements of and for South African women; and the inclusion of gender considerations in criteria for the Film and Publications Act (see Article 5).

Parliamentary/NGO Task Force on Violence Against Women

This task force, formed in 1997, brings together parliamentarians, parliamentary staff, and NGOs. It is a unique example of women parliamentarians breaking down hierarchical barriers and working hand in hand with civil society to raise awareness on one of the worst scourges facing women in South Africa. The task force has worked closely with the Department of Justice in its campaign to eradicate violence against women (see Recommendations 12 and 19).

Transformation of parliament

A number of changes have been introduced to make parliament more gender sensitive. These include:

- a re-examination of the working hours of parliament to accommodate the fact that many women have domestic and child care responsibilities. Where possible, parliamentary recesses have been aligned with school holidays;
- an increase in the number of toilet facilities for women (there were virtually none after the elections!);
- a creche for the children of parliamentarians and parliamentary staff;
- a more relaxed dress code; and
- gender-sensitive language in the drafting of legislation

Issues still needing attention

The above reflect important achievements. There are, however, still a number of concerns.

Obstacles faced by women parliamentarians

Since 1994 women MPs have experienced a number of problems. These include:

- Conflict between work and domestic responsibilities: Despite the changes in hours, the fact that parliament is based in Cape Town means that women parliamentarians often have to be away from home;
- Unchanged processes: while the environment of parliament has become more gender friendly, many processes remain unchanged; and
- Lack of skills: many women feel they lack the requisite skills for dealing with parliament (English, public speaking, management, financial, parliamentary procedures).

While some of these difficulties might be shared by men who have entered parliament since the 1994 elections, they are often specific, or particularly acute, for women. The conflict between personal and professional lives is especially severe for women.

Weakness of gender structures

Other questions have been raised regarding the commitment of parliament to fundamental transformation. For example, while the establishment of the Committee on the Quality of Life and Status of Women was an important achievement, it is an ad hoc committee, which suggests that it has a limited life span. The status of the committee also limits its access to resources. The Parliamentary Women's Group is still not formally recognised. This means that it has no budget, and that meetings have to be held over lunch hours or after hours.

Electoral system in the 1999 elections

The 1994 national and provincial elections were conducted on a proportional representation basis, a system which world-wide and in South Africa has been shown to favour women.

Under the Constitution, the future electoral system still has to be prescribed by legislation. However, the electoral system must "result, in general, in proportional representation". An annexure notes that the 1999 elections will be on the same basis as 1994.

Actions taken

Strengthening of structures in parliament
In March 1997 the three gender structures in parliament met to rationalise their functions and devise complementary Plans of Action to ensure the effective representation of women in parliament, as well as the integration of gender considerations into the legislative process. Among the recommendations of the workshop were that the ad hoc committee be made a permanent standing committee and that the PWG be officially recognised. It is envisaged that the WEU will play an important role in providing relevant training and support for women parliamentarians.

Campaign in advance of the 1999 elections
The PWG has launched an awareness campaign on the dangers of a decline in the representation of women in parliament in the next elections. This campaign is also likely to be taken up by the Commission on Gender Equality.

Pressure on political parties
Political parties will have a major role to play in ensuring a critical mass of women in the next parliament, and in devising an electoral system that encourages women to participate in politics. A positive effect of the quota set by the ANC is that opposition parties are under pressure to increase the number of women parliamentarians they field, even if they are still opposed to an actual quota.

Representation of Women in Cabinet
There has been a steady increase in the number of women ministers and deputy ministers in the South African cabinet since the elections. The immediate post election cabinet consisted of three women ministers out of a total of 27 ministers and three women deputy ministers out of a total of twelve deputy ministers (altogether, six out of 39). Prior to the elections there was only one women minister and one deputy minister.

In a cabinet reshuffle in March 1996, President Mandela named three new women deputy ministers. Following the withdrawal of the National Party from the Government of National Unity on 9 May, one woman deputy minister was promoted to minister and two more women deputy ministers named. The number of ministries has been reduced to 25 and deputy ministries increased to 13. This means that there are now a total of four women ministers out of 25 and eight deputy ministers out of 13; or a grand total of 12 out of 38. Put differently, women now constitute 31% of ministers and deputy ministers, compared to 15% after the elections.

Women ministers have played an important role in advancing gender issues. The Minister of Welfare and Population Development played a key role in lobbying for the establishment of national machinery for advancing gender equality and for the gender and macroeconomic pilot study which South Africa has initiated with the Commonwealth Secretariat (see Article 2). Her ministry also co-ordinated the writing of the CEDAW report while the Office on the Status of Women was being established. The Minister of Health, who led the South African delegation to Beijing, has moved swiftly to introduce a primary health care system with major benefits for poor rural women, and spearheaded the controversial Termination of Pregnancy Bill through parliament. The Deputy Minister of Justice initiated the campaign on violence against women in her ministry. The Deputy Minister of Trade and Industry has taken up issues

of women in business and in particular, in small and medium scale enterprises. The Deputy Minister of Finance is playing a key role in the gender and macroeconomic policy pilot study.

These few examples show that having women in cabinet is key to putting gender issues on the agenda. The other women ministers head the Departments of Public Enterprise and Housing. The other deputy ministers are found in the Departments of Agriculture; Home Affairs; Mineral Affairs and Energy; Arts, Culture, Science and Technology; and Public Works. Each has at different times shown her awareness of relevant gender issues in her portfolio.

The President and Deputy President have indicated that they are committed to achieving gender parity in cabinet.

> In announcing the additional women ministers and deputy ministers in mid-1996, President Mandela remarked explicitly on the significance of their appointment:
>
> *With the latest appointment into senior positions in the executive ..., we have taken another step to address the national challenge of the emancipation and empowerment of women.*
>
> *It goes without saying that we are still not satisfied with the progress we are making in this regard and will therefore continue to attend to this important matter within the context of our possibilities.*
>
> *Without in any way minimising the importance of any Ministry, I would nevertheless like to refer to the reality of the role of the women leaders of our country in some of the ministries that are critical to job creation, and the improvement of the quality of life of the people, including Housing, Public Enterprises, Health, Agriculture, Public Works, Welfare, Trade and Industry, Minerals and Energy and Finance.*
>
> *I am confident that the newly appointed Ministers and Deputy Ministers will carry out their responsibilities with the seriousness and dedication to which we have become accustomed.*

Provincial Leadership
One of the nine provincial premiers is a woman.

Women in Local Government
South Africa's first democratic local government elections were held in 1995 in seven of the nine provinces, on a part constituency, part list system. 19% of those elected in rural and urban areas were women. 14% of positions at executive level are held by women. The local government elections for the remaining two provinces were held in 1996.

The figures on women's representation at local government level, while lower than those at national or provincial level, still compare well with global statistics. The average for OECD countries is 3% lower than that for South Africa. In the developing world South Africa ranks third, after Guyana and Trinidad and Tobago. The difference between the proportion of women in seats contested on the basis of proportional representation (28%) and those won on

a ward or constituency based basis (11%) raises concern over possible forms of a new system at national and provincial level.

Women's percentage of seats won in 1995 local government elections

	Proportion	Ward	Overall	Unknown
Eastern Cape	32%	17%	26%	18%
Free State	32%	8%	18%	1%
Gauteng	28%	12%	20%	1%
Mpumalanga	32%	7%	20%	1%
North-West	29%	11%	19%	3%
Northern Cape	19%	11%	15%	1%
Northern Province	24%	9%	15%	1%
Western Cape	19%	13%	15%	1%
Total	29%	11%	19%	5%

Note: Elections for KwaZulu-Natal and parts of Western Cape were only held in 1996

The ANC accounted for 911 of the total 1 205 representatives, the National Party for 132, the Democratic party for 20, the Freedom Front for nine, the Conservative Party for three, the Pan Africanist Congress for two and the Inkatha Freedom Party for one. A further 74 women councillors were elected as independents, nine as representatives of rate payers associations, and 44 as members of other parties or constituencies.

A report of the Local Government Information Centre (LOGIC) of IDASA[6] suggests the following reasons for the lower representation of women in the local government elections:

- Party bias towards male candidates: only the ANC had a formal policy on gender, and this focused more on the proportional representation than on the ward seats. This, the report says, "is consistent with international trends and is generally attributed to parties not wanting to risk losing seats by forwarding women candidates, especially in ward elections";
- Administrative shortcomings: the report notes that the Local Government Transition Act (1993) neither impedes the representation of women nor actively encourages it;
- Status of traditional leaders: the report argues that the status of traditional leaders, either in ex officio status or as an interest group, is a deterrent to the participation of women in local government;
- The entrenched patriarchal values held by many decision makers: in the electorate, councils, political parties and communities;
- Supply shortages: the report suggests that the influx of experienced and credible women leaders in political, public and private sectors may have caused a shortage of qualified women candidates.
- The gate keeping role of the public service: many women interviewed complained that they found it difficult to obtain key information on the election process.

The report comments that "given that women are typically the principal care givers in households, they are "probably best suited to mould the benefits of local government in a far reaching manner." It concludes that "the under representation of women in local government is a concern of weight."

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[6] Chan H. 1996. "Women at the Periphery of Power: A Brief Look at Why Women are Under-represented in South Africa's Premier Democratic Local Elections". IDASA LOGIC: Johannesburg.

South African Local Government Association
The South African Local Government Association (SALGA) is an umbrella group for local government authorities. SALGA has as one of its objectives to promote gender equality and ensure the full participation of women in local government. A gender sub-committee of SALGA has held workshops around the country in which two main themes have emerged: the need to increase the representation of women in local government, and the need to ensure the qualitative and strategic participation of present councillors - in particular women - in local government.

Among programmes initiated by the sub-committee are gender audits of local government structures; training programmes; research and advocacy. The sub-committee told the CGE Information and Evaluation workshop in May 1997 that one of its key achievements so far has been "building awareness of the need to address gender equality and equity within Local Government structures".

Women in the Public Service
This is covered under Article Four.

The Judiciary
Of the 18 judges of the Appellate Division of the Supreme Court of South Africa, none are women. There are two women judges of the ten appointments to the Constitutional Court. The Land Claims Court has one woman out of five judges and there is one woman on the Labour Court. Of the 55 judges in the Transvaal Division of the Supreme Court, four are women. There is one women out of 25 in the Western Cape and one out of 22 in Natal. The other six divisions - with 48 judges between them - have no women. Of the total of 186 judges, 156 are white men, 20 are black men, 7 are white women and three are black women.

The following tables reflect the gender composition of court personnel at lower levels and in public bodies falling under the Department of Justice. In general staff components reflect gender disparity, with the majority of staff being male, particularly at the higher levels.

Magistrates

Rank	Total	Women	Men
Chief Magistrate	36	2	34
Senior Magistrate	174	7	167
Magistrates	1174	56	1119

Prosecutors

Rank	Total	Women	Men
Attorney-General	10	0	10
Senior Prosecutor	80	28	52
Prosecutor	1606	679	927

Family Advocates

Rank	Total	Women	Men
Senior Family Advocate	4	3	1
Family Advocate	14	7	7

Court Interpreters

Rank	Total	Women	Men
Chief Inspector of Interpreters	6	0	6
Inspector of Interpreters	4	0	4
Principal Interpreter	58	2	56
Senior Interpreter	513	53	513
Interpreter	413	126	287

Public bodies

Body	Total	Women	Men
Human Rights Commission	10	5	5
Commission on Gender Equality	12	10	2
Truth and Reconciliation Commission	15	4	11
Magistrates Commissions	10	0	10
Judicial Services Commission	8	2	6
Public Protector	1	0	1
South African Law Commission	7	2	5

In August 1996 the Department of Justice participated in the African Conference of the International Association of Women Judges held at Kampala, Uganda. The establishment of a Southern African Women's Judges Association was discussed and women judges were also urged to consider forming their own associations in their own countries. The Deputy Minister, Dr Mantho Tshabalala-Msimang, recently convened a meeting to canvas this possibility. A meeting of women judges and magistrates will be convened in the future to explore the establishment of a national forum of women judicial officers and to consider joining international associations.

Women in decision making positions in the private sector

As in the case of the sectors reviewed above, women in the private sector congregate in the administrative and support positions. Under a quarter of those employed in management positions are women. Only 9% are African women. Men predominate in the positions which have the greatest decision-making power and control over resources. The private sector will be covered by Equal Opportunity legislation being prepared by the Department of Labour (see Article 11).

ARTICLE 8: INTERNATIONAL REPRESENTATION AND PARTICIPATION

States Parties shall take all appropriate measures to ensure to women, on equal terms with men, and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organisations.

United Nations structures

South Africa, through its missions in New York, Geneva, London, Paris and Addis Ababa, participates in United Nations (UN) committees and meetings concerned with the empowerment of women. The committees include:

- the Economic and Social Council (ECOSOC) with its subsidiary body, the Commission on the Status of Women (CSW);
- the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- INSTRAW - the United Nations International Research and Training Institute for the Advance of Women; and
- the United Nations Division for the Advancement of Women (DAW);
- the United Nations Economic Commission for Africa (UNECA) and its sub-committee, the Africa Regional Coordination Committee for the Integration of Women in Development (ARCC).

South Africa was elected as a member of ECOSOC in 1994 and has been accorded observer status on the CSW.

Participation in International Events

Beijing Conference

The Fourth World Conference on the Status of Women was held in Beijing from 4-15 September 1995. The Beijing delegation was led by the Minister of Health, Dr Nkosazana Zuma. The Conference provided an official opportunity for the women of the new democratic South Africa to represent the country abroad on the issue of women's human rights.

The Beijing Conference was preceded, inside the country, by extensive liaison between the different levels of government, national and regional NGO structures, representatives of the labour movement and religious structures. South Africa also liaised and coordinated with the following international groupings:

- United Nations family (UNIFEM, INSTRAW, Commission on the Status of Women (CSW), Third Committee: Advancement of Women);
- G77;
- Africa Group;
- Southern African Development Community (SADC); and
- the Commonwealth.

Other international events

South Africa has also participated in other events focusing on women's rights:

- In March 1995, then Deputy Minister Fraser-Moleketi led a delegation of four women from government and NGOs to the 39th session of the Commission on the Status of Women, held in New York. The discussion dealt with the implementation of the Nairobi

Forward-Looking Strategies for the Advancement of Women, the provisional agenda for the next session of the Commission, and the provisional agenda for the Beijing Conference.

- In late 1995, then Deputy Minister Fraser-Moleketi led two delegations of gender and human rights specialists on study visits of Uganda and Australia. The visits, funded and facilitated by the Commonwealth Secretariat, focused on the gender machinery in the two countries;
- In March 1996, Ms Shope-Mafole of the Independent Broadcasting Authority attended the 40th session of the Commission on the Status of Women, held in New York;
- In March 1996, advocate Zelda Moletsane of the Department of Justice attended the New York meeting of the Working Group on the Elaboration of a Draft Optional Protocol to CEDAW. In July 1996 Ms Moletsane attended a follow-up meeting of the Working Group.
- In August 1996, Minister Fraser-Moleketi led a twenty member delegation of children's rights specialists - mainly women - to the First World Congress Against the Commercial Sexual Exploitation of Children. The purpose of the Congress was to adopt a Programme of Action to eradicate the commercial exploitation of children.
- In late 1996 Minister Fraser Moleketi led a five-member delegation of gender and human rights specialists to the fifth meeting of Commonwealth Ministers responsible for Women's Affairs. The purpose of the meeting, held in Trinidad, was to discuss implementation of the Commonwealth Plan of Action and gender integration into macroeconomic policies;
- In March/April 1997, South Africa participated for the first time as a member in a meeting of the United Nations Commission for Humnan Rights, held in Geneva. The South African delegation was led by the country's Permanent Representative in Geneva and included some women representatives from the mission in Geneva as well as the head office in Pretoria.

Regional activities

South Africa has participated actively in regional activities around gender. For example:

- In April 1996 women representatives from the Departments of Foreign Affairs and Welfare attended the Seventeenth Meeting of the African Regional Coordinating Committee for the Integration of Women in Development. The meeting, held in Addis Ababa, discussed strategies for the implementation of the Global and Regional Platforms for Action.
- In September 1996 representatives attended the African Conference on the Empowerment of Women through Functional Literacy and the Education of the Girl Child. The conference was hosted by the Organisation of African Unity and held in Kampala.

South Africa has also participated in Southern African activities. These included attendance at the SADC Gender Strategy Workshop in Johannesburg, in January 1997 and the Ministerial Workshop on Gender in Windhoek, February 1997.

The Windhoek meeting recommended that gender structures be established within the SADC as follows:

- a Standing Committee of Ministers responsible for Gender Affairs in the region;
- the existing Advisory Committee, to advise the Standing Committee and other Sectoral Committees of Ministers on gender issues;
- gender focal points in all SADC Sector co-ordinating units; and
- a Gender Unit in the SADC Secretariat, consisting of at least two senior officers.

The 1997 SADC Consultative Conference agreed that the SADC would:

- place gender firmly on the agenda of the Programme of Action and Community Building Initiative through a declaration by Heads of State and Government at their next Summit in August 1997;
- establish a policy framework for mainstreaming gender in all its activities; and
- put in place an institutional framework for advancing gender equality.

In November 1996, the Ministry for Welfare and Population Development together with the Office of the Deputy President hosted a workshop on "Women and Peace" in Kempton Park. The workshop was attended by African women ministers and leaders. Its purpose was to devise regional mechanisms for channelling women's inputs into the peace process at the national, regional and international levels. On the basis of the understanding reached at this workshop, in February/March 1997 Minister Fraser-Moleketi was invited to the Pan African Women's Conference on Peace, Gender and Development held in Rwanda.

Women in South African foreign missions

The historical position

Historically women played a secondary and supportive role in the representation of South Africa in the international arena. It was only in 1968 that women were permitted to be diplomats, and then only if they were white and single. The first woman diplomat was appointed in 1972. In 1981 the decision to allow women to be diplomats was reversed. Women could again only be appointed to consular positions. In the mid-1980s the decision was once more reversed.

This inconsistent policy meant that women fell behind their male colleagues, and also had to deal with negative perceptions regarding women's role and professional contribution. The first woman ambassador and first woman consul-general were only appointed in 1988.

The current position

12 of South Africa's 92 (13 percent) of foreign missions are currently headed by women. The women heads are found in Berne, Bonn, Brussels, Chicago, Dar-Es-Salaam, Frankfurt, Hong Kong, Kuala Lampur, Paris, Rome, Vienna and Walvis Bay.

Overall, 40% of South African staff in foreign missions are women. The majority are white women, who account for 36% of total staff. White men account for 43% of staff. Representation of women is lower at higher levels such as head of mission. Conversely, women account for 97% of foreign assistants.

Women in South African foreign missions

Rank	% women
Head of mission	13%
Foreign service officer	26%
Foreign administration	44%
Foreign assistant	97%
Other	25%

Up to 1988 women diplomats had to choose between a career and marriage. Today there is still discrimination when women in foreign missions marry foreign nationals, or fall pregnant.

In the latter case, women have to return to South Africa early in the pregnancy. Also, when a couple is employed by the Department, one spouse (the "non-breadwinner") receives a smaller allowance than if s/he is not married. The spouse of a Head of Mission may not work in the Mission at all. These issues are currently being reviewed by the Department of Foreign Affairs.

Other obstacles to women's full participation in the Foreign Service include:

- aspects of the selection processes;
- male domination of personnel assessment committees;
- lack of recognition of women's experience and skills as "suitable" for a diplomatic career;
- pressures experienced, or perceived to be experienced, by women who combine family responsibilities with the demands of a diplomatic career; and
- under-estimation by women of their own abilities.

Training

The Foreign Service Institute is responsible for diplomatic training. Two six-month programmes are run annually. Each programme accommodates approximately twenty-five officers. The table below shows that women accounted for 30% of those either trained or still to be trained in the period July 1995 to June 1997.

Training for diplomatic service

	Women	Men	Total
Trained	31 (23%)	75 (56%)	106 (79%)
Outstanding	9 (7%)	20 (15%)	29 (22%)
Total	40 (30%)	95 (70%)	135 (100%)

Foreign trade missions

The Department of Trade and Industry has an extensive programme of outward trade missions every year. It is considering covering 80% of the costs of women travelling on trade missions. The Department takes great care when awarding export marketing assistance to ensure that there is a mix of small and large firms and that as many as possible of the participants are women. The last five trade missions included 32 women, of whom 20 were black. In addition, eight women (three black) participated in National Pavilions and 49 women (4 black) in individual exhibitions.

ARTICLE 9: NATIONALITY

1	*State Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien or change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.*
2	*State parties shall grant women equal rights with men with respect to the nationality of their children.*

Citizenship

The pass laws and influx control regulations of the apartheid era severely restricted the movement of black South Africans. The homeland system effectively robbed 9 million black South Africans of their citizenship. Passports were frequently denied as part of the suppression of those opposed to apartheid. Black women were especially affected by these regulations which were designed to create a pool of (male) black labour for the white farms, mines and factories, while leaving women to fend for themselves in the impoverished and largely rural homelands.

The new South African Constitution provides that "All citizens are (a) equally entitled to the rights, privileges and benefits of citizenship and (b) equally subject to the duties and responsibilities of citizenship." The South African Citizenship Act (1995) confirms the citizenship of people resident in the former homeland areas. The South African Passports and Travel Documents Act (1994) confers on each South African the right to a passport.

Women have equal rights with men with regard to acquisition, change or retention of their nationalities. Marriage to a non-citizen does not affect a woman's nationality. Citizenship is determined by birth or parentage. A mother's citizenship carries equal weight with that of a father. Women do not require the consent of their husbands or of a male guardian to obtain a passport or travel document.

Equal rights exist for spouses in obtaining residence and employment where a spouse is a non-national. The nationality of a child is determined by birth and parentage on an equal basis. Minor children have their own passports. Both parents' consent is required, except where one parent has sole guardianship or where the child was born extra-maritally.

An important concern, raised in a review of the Department of Home Affairs in the second Women's Budget is the almost complete dearth of gender-disaggregated data on these issues. There are no female-male breakdowns of principal applicants for citizenship, those applying for refugee status or work and study visas, arrivals by migration category, or legal and illegal immigrants.

Immigration

Immigration is controlled by the Alien Control Act (1991) and the Alien Control Amendment Act (1995). These acts regulate migration through immigration, work and workseeker permits. The amendment provides the government with greater controls and powers of expulsion.

In the period since the 1994 elections there has been a dramatic increase in the number of illegal immigrants, although the actual numbers are unknown. Official figures range from 2 to 8 million. The definition is itself contested. The Centre for Policy Studies notes that there are many black foreigners who have been here for more than twenty years; own property and have married locals. They have therefore fulfilled residence requirements, but have not been granted legal status of temporary or permanent residence. Various exemptions have over the years been granted to certain categories of black families. These include those who entered the Republic before 1 July 1986, mineworkers (exemptions granted in 1995) and citizens of SADC countries (in 1996). Other people classified as "illegal" come into the country for short periods - perhaps to trade - and have no intention of staying.

The review of Home Affairs in the second Women's Budget[1] notes that "while people who enter the country under the Aliens Control Act may eventually be granted the right to permanent residence, this is denied those whose status is governed by bilateral treaties with Southern African countries. An added gender dimension is that temporary contract workers, even if they have worked for twenty consecutive years in this country, are not allowed to bring their families over".

In 1996 the government granted amnesty to nationals of the SADC region who could prove they had been resident in South Africa for five years or longer before July 1991, had no criminal record, were engaged in productive economic activities in South Africa, had a relationship with a South African partner or spouse, or had dependent children born or residing legally in SA.

As noted, gender disaggregated statistics on illegal immigrants and those granted amnesty are scarce. The Women's Budget comments: "Further, very little can be said about the factors which precipitate the decision to migrate, what the characteristics are of such women, and what their subsequent labour market and social experiences are."

The Department of Home Affairs has released a Green Paper on Immigration Policy. The Department of Labour plans to commission research into trans-national migrant labour.

Refugees

In January 1996, South Africa acceded to the Conventions on the Status of Refugees of 1951; the Protocol relating to the status of refugees of 1967 and the Organisation of African Unity Convention governing Specific Aspects of the Refugee Problem in Africa of 1969. The Convention on the Status of Refugees enshrines the principle of non-refoulement (not rejecting) of asylum seekers. The majority of refugees - and particularly women - flee on account of war and famine.

Most of the displaced persons in South Africa are Mozambicans who fled the civil war and settled in the former KaNgwane and Gazankulu areas. The United Nations High Commission on Refugees (UNHCR) estimates that there were 250 000 such displaced persons. These were not recognised as refugees during the apartheid era, since South Africa was not a signatory to the relevant Conventions. They are not eligible for refugee status now, since the war in

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[1] Ajam J. "Home Affairs and Foreign Affairs" in D Budlender. *The Second Women's Budget*. IDASA: Cape Town.

Mozambique is over. However, of the 120 000 registered for voluntary repatriation, only 31 000 returned home. It is estimated that 70% of those remaining are women and children.[2] Very little research has been done on the plight of these Mozambicans. It is well-known that many work under appalling conditions on white-owned farms.

According to May 1997 figures, 3 431 persons had formally been granted refugee status in the whole of South Africa. Most of those granted refugee status came from Angola, Burundi, Somalia, Rwanda and Zaire (now the Democratic Republic of Congo). The majority are single men in the economically active age group. Only 5% are women, and 6% percent are children. The figures show that a high percentage of applications for refugee status are either rejected, cancelled, referred back for further investigation or are still being considered.

According to the UNHCR office in Pretoria, "almost all of the women have very little or no skills to enable them to enter gainful activities that will improve their quality of life." Basic skills training and some adult literacy classes are being provided by the UNHCR and Red Cross. Because of the high unemployment rate in South Africa, most of the refugee women have expressed interest in starting small businesses.

The South African Red Cross has an agreement with the Johannesburg hospital for the provision of medical care to all refugees, including women and children, at a minimal cost. Refugee women receive free maternal care from local hospitals and special toiletries (including sanitary napkins) from the Red Cross.

The Department of Home Affairs has drafted legislation dealing with refugee status. This will be presented to parliament in due course.

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[2] Dolan C. 1995 "Policy Challenges for the New South Africa" in *Southern African Migration: Domestic and Regional Policy Implications*, Johannesburg: Centre for Policy Studies, workshop proceedings no 14.

ARTICLE 10: EDUCATION

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

d) The same opportunities to benefit from scholarships and other study grants;

e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

f) The reduction of female student drop-out rates and the organisation of programmes for girls and women who have left school prematurely;

g) The same opportunities to participate actively in sports and physical education;

h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

The Educational Legacy of Apartheid

Prior to 1994, the education system in South Africa was divided along racial apartheid lines, with a total of 19 education departments. Past deficiencies in educational opportunities - particularly for women - have left their mark. For example,

- only 6% of African women (and 6% of African men) 20 years and older have graduated from tertiary institutions;
- only 12% of African women (and 15% of African men) have matriculated; and
- 20% of African women (and 14% of African men) have had no formal schooling at all.

Fewer than 1% of white women and men have no formal education.

The provincial breakdown below provides insight into the locational as well as gender disparities in educational achievement.

- In virtually all the provinces the percentage of adult women with no formal education is higher than men. The disparity is worst in the poverty-stricken Northern Province where 21% of the women and 11% of the men are without any formal education.
- The percentage of men with university degrees is higher than the percentage of women in every single province. In the Free State, North-West, Northern Province and Eastern Cape the percentage of women with degrees is lower than 1%.

Level of formal education of those 15 years plus (%)

	Women		Men	
	None	Degree	None	Degree
Eastern Cape	12	1	11	2
Free State	11	1	9	1
Gauteng	5	4	5	6
KwaZulu-Natal	13	1	9	3
Mpumalanga	21	1	18	2
NorthWest	17	1	18	1
NorthernCape	19	1	18	2
Northern Prov	22	1	11	2
Western Cape	4	3	4	5
Total	12	2	10	3

Most basic education statistics are disaggregated by gender. Some statistics on education in rural areas can also be calculated as data are collected according to magisterial district. There are no current statistics on race. However the new Education Management Information System (EMIS) will collect pupil enrolments according to race and this data should be available towards the end of 1997.

South Africa faces the challenge both of addressing the educational deficiencies of the past, and providing for the many young people in the population. In the first years of the democratic government the country has focused its attention, in particular, on the school level. There have, however, also been less ambitious initiatives in the areas of tertiary education, early childhood development (ECD) and adult basic education and training (ABET).

Education - a human right

South Africa has clearly stated its commitment to providing lifelong education and training for all its people. The White Paper on Education and Training of 1995 states that:

Every person shall have the right:-

a) to basic education and to equal access to education institutions;

b) to instruction in the language of his or her choice where this is reasonably practicable;

c) to establish, where practicable, educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the ground of race.

The White Paper acknowledges that the state has an obligation to protect and advance this right, so that "all citizens irrespective of race, class, gender, creed or age, have the opportunity to develop their capacities and potential, and make their full contribution to the society."

The Bill of Rights in the Constitution, too, states that everyone has the right to both basic education and further education which the state "must take reasonable measures to make progressively available and accessible".

Strategy 18 of the Draft Population Policy aims to improve the quality, accessibilty, availability and affordability of education from early childhood through to adult education, with the emphasis on gender-sensitive and vocational education and the promotion of women's educational opportunities at the tertiary level.

Schools

Policy

The Constitution gives the national Department of Education responsibility for overall policy formulation. However, the provinces also enjoy significant powers. While the national department bears full responsibility for higher education, provinces are largely responsible for other levels. Approximately four-fifths of the total Education budget is at the provincial level.

The South African Schools Act (1996) (SASA) makes schooling compulsory for all children from the beginning of the year in which they turn seven until either they reach the age of fifteen, or reach the ninth grade. Parents and guardians who do not ensure that their children attend school are liable to imprisonment or a fine. Policy and law thus provide for a compulsory ten years of education for all children, female and male.

SASA stipulates that the state will provide basic infrastructure, including teachers salaries, materials and textbooks to all public schools. It provides that "a governing body of a public school must take all reasonable measures within its means to supplement the resources supplied by the State in order to improve the quality of education provided by the school to all learners at the school".

Such means can include charging school fees. But SASA states that no child can be turned away from a school because of inability to pay fees, and that school fees may only be charged where there are "equitable criteria and procedures for the total, partial or conditional exemption of parents who are unable to pay school fees". Vigilance will be needed to ensure that - as has happened in some countries - user fees do not lead to poorer parents sending their boy children to school in preference to girl children.

Enrolment

At present girls account for 52% of primary and 51% of secondary scholars. Nevertheless, there are reports of religious, cultural and social practices that prevent girls from attending school. Some families, especially in the rural areas, prefer to educate boys rather than girls.

In some areas, when girls reach the age of 13 or above, they are sent to initiation schools from which they graduate as women, ready to be married. In the Northern Province some principals make arrangements with families that after initiation school girls or rather young women are accepted back into school to continue with their studies. This is dependent upon co-operation by the family. In some Indian communities, girls are also married at very young ages.

Dropouts

A national survey of South African youth aged 15-30 in 1993[3] found the reasons for dropout as recorded in the table below. The table shows finance and pregnancy as the major reasons why girls and women discontinue their education prematurely.

[3] Everatt D and Orkin M. 1993. "Growing up tough: A national survey of South African Youth designed and analysed for the Joint Enrichment Project." Community Agency for Social Enquiry: Johannesburg.

% youth providing various reasons for not continuing with education

Reason	Women	Men	African Women	African Men
Finance	46	57	47	63
Pregnancy	28	3	31	3
Health	4	5	4	6
Boredom	3	4	2	2
Wanted work	3	4	2	2
Difficult to pass	3	4	2	3
Family/marriage	3	1	4	4
Expelled	1	3	1	3
Violence	0	3	0	3
Independence	0	1	0	0
Problems at school	1	4	1	4
Other	8	11	6	7
Total	100	100	100	100

Source: C A S E survey, 1993

There are currently no specific programmes that target girls and women who have left school. There are also no statistics on numbers of girls or women who engage in educational programmes after dropping out of formal schooling.

A range of general skills training programmes which include sewing, gardening, plumbing, etc, are available. Some of these training services are available at technical colleges, others at privately-owned facilities. Entry is open to all, but traditional practices still channel women to "soft" careers and men to "hard" careers. However, the main barrier to access to any form of training is lack of financial support for most women. Some of the privately-owned facilities, in particular, are financially out of reach of both women and men. This obstacle is exacerbated by lack of child-care support for young mothers.

Differences in achievement rates

Since 1993, more females than males have been registering for matric. However, males obtain better results than females. The preliminary matric results for full time candidates (1996) indicate that:

- of the 518 032 candidates who wrote matric 289 950 (56%) were females and 228 082 (44%) were males;
- of the 231 284 (45%) candidates who failed, (60%) were female and 91 440 male.

The Information Systems Directorate of the Education Department is preparing to collect data on drop-out rates. The Directorate is aware of the need to investigate the differences in female performance at the matric and other levels.

Curriculum

The national education policy calls for all learners to be able to choose the subjects they will study. However school and cultural practices present barriers to an increase in the number of girls in subjects and courses like science, maths, engineering, woodwork and technical drawing. The Department is aware of the need to use career guidance counsellors in every school to assist in changing traditional practices that channel girls towards "soft" careers. In-service training for teachers will need to focus on changing teacher attitudes that discourage girls from participating in any subject of their choice.

Schools that offer guidance education provide career and vocational guidance to both girls and boys. The interim syllabus makes provision for this under the sub-section "Education and

Training". Girls need special encouragement to take advantage of the full range of vocational opportunities. They need role models and assertiveness skills to pursue careers that have traditionally been taboo. Some schools use female role models who are successful in traditionally "male careers" to visit their school and encourage girls to consider similar careers.

The National Qualifications Framework has developed new learning areas with guidelines that are designed to address social and cultural patterns that lead to discrimination and to stereotyped roles for women and men. Once this is completed, there will be a need to re-train practising teachers so that they will be able to implement the changes.

Schools do not have specific courses that deal with family life education. In schools where guidance education is taught, there is a focus on family life to which both girls and boys have access. Within the guidance interim core syllabus there is a section that deals with family and sexual education. The need for sex education is evident in, for example, the high incidence of teenage pregnancy and birth to teen mothers. Education programmes will have to target both the girl and boy child to challenge the values and practices which support this phenomenon.

Sports

The national education policy allows for the full participation of girls and women in all sporting activities. However, many schools and communities are still not flexible in allowing girls to participate in any sports. Many schools do not have adequate sporting facilities for girls or boys. Where there are facilities, they are often not safe for girls and women. Many girls are expected to help at home after school, rather than engage in extra-mural schooling activities such as sport. The media scarcely covers sporting activities of women. Cultural and social stereotypes discourage girls and women from participating in sport, or restrict them to certain sporting types.

The Department of Sport and Recreation has a range of programmes and projects aimed at accelerating equality between women and men in sport (see Article 13). These target all ages. The Department is identifying talent among girls and boys aged 12 and 13 years old, with a special emphasis on disadvantaged areas and groups.

Teachers

Of the 341 903 teachers nationally in 1994, 219 206 (64%) were female. 76% of African teachers at the primary level, and 44% at the secondary level, were female. Yet men accounted for 58% of principals, 69% of deputy principals, and 50% of Heads of Department. Women congregated in the lower ranking positions.

Qualifications

Teacher qualifications are classified on a scale running from A3 (lower than Std 10 without teacher qualification) to G (Std 10 plus 7 years appropriate training, including a recognised master's degree). In this schema C is equal to Std 10 plus 3 years of appropriate training. The next tables summarise qualifications of African teachers in 1994 at the primary and secondary level according to the schema. At the primary level a higher proportion of women than men did not have the required qualifications of three years post matric professional training. The relatively small proportional difference translates into large absolute numbers. At the secondary level there were fewer women overall, but they were slightly better qualified than their male counterparts.

African Primary Teachers Qualifications 1994

Qualif	Women	%	Men	%	Total
<C	69821	61%	21290	57%	91111
C	42412	37%	14676	39%	57058
>C	3049	3%	1287	3%	4336
TOTAL	115282	100%	37253	100%	152536

African Secondary Teachers Qualifications 1994

Qualif	Women	%	Men	%	Total
<C	7407	19%	11453	23%	18860
C	21722	56%	26589	53%	48311
>C	9833	25%	11988	24%	21821
TOTAL	38962	100%	50030	100%	88992

Key: C = Std 10 plus 3 years appropriate training
Source: Edusource

The next table shows the percentage of men and women educators in each province who in 1994 had no teaching qualifications ("None"), were underqualified ("Some") and were fully qualified ("Full"). In the Western Cape, for example, 0% of teachers of both sexes are unqualified and 95% of men and 67% of women fully qualified. In Free State, on the other hand, 6% of men and 9% of women were unqualified and only 65% and 54% respectively were fully qualified. In every case the percentage (if not the absolute number) of fully qualified women educators was lower than that for men.

Educators' qualifications by gender and province, 1994

	Women			Men		
Province	None	Some	Full	None	Some	Full
Eastern Cape	3%	45%	52%	3%	24%	72%
Free State	9%	38%	54%	6%	29%	65%
Gauteng	2%	21%	77%	2%	17%	81%
Kwazulu-Natal	19%	26%	55%	15%	17%	68%
Mpumalanga	13%	28%	59%	14%	21%	65%
Northern Cape	3%	39%	58%	2%	11%	87%
Northern Province	3%	36%	62%	3%	28%	69%
North West	13%	39%	48%	11%	31%	57%
Western Cape	0%	33%	67%	0%	5%	95%
Totals	8%	33%	60%	7%	21%	72%

Source: Edusource

Teacher training

The Department of Education's "Norms and Standards for Teacher Education" recognises the importance of incorporating gender perspectives into all aspects of teacher education. It states that the norms and standards are aimed at ensuring the quality of teacher education within an equitable, democratic, non-racial, non-sexist education system. It stresses the importance of teachers being able to draw on a range of knowledge including knowledge of self, knowledge of gender issues, knowledge of sexuality and family education.

Tertiary education

Student profile

Women account for 45% of graduates at the tertiary level. Women are particularly badly under-represented in some key areas of study. This is illustrated in the following table, based on 1995 figures from 15 of the 21 universities. Engineering is the most male-dominated of all areas: only 9% of graduates are women:

Selected fields of university study

Field of Study	% female graduates
Medicine	38%
Engineering	9%
Law	42%
Sciences	47%
Agriculture	28%

Fees, bursaries and loans

Although tertiary education is subsidised, students, or their families, must pay many thousands of rands in fees. Where poor potential students cannot find private assistance, they are often excluded from tertiary studies. While the level of the fees affects all potential students, some families could choose to use scarce resources for their male rather than female children.

At present there is no state bursary or loan scheme. The Tertiary Education Fund of South Africa (TEFSA), originally established by the Independent Development Trust, provides loans. TEFSA takes race into account in making its allocations to institutions, but does not consider the gender profile. Some loans and bursaries are also available from commercial companies. However, these tend to focus on the "hard" subjects such as engineering and commerce, in which there are fewer women students.

There are also a number of NGOs providing bursaries and loans. Some of these consider gender in making their allocations. The NGOs have all had to downscale their operations dramatically with the shift in overseas funding away from NGOs to government.

Staff

In 1996, 46% of all staff (4 371 of 9 459) at technikons were women. However, 1993 statistics indicate that only 33% of permanent educators at technikons (excluding those in the former Transkei, Bophuthatswana, Venda, Ciskei (TBVC) areas) were women, suggesting that women staff are concentrated in administrative posts. The most recent available data on ranked positions at Technikons is for 1991. In that year there were no female rectors or vice-rectors, while only 5% of directors, 18% of associate directors and 24% of senior lecturers were women.

At the university level, women constituted 42% of all staff (15 463 of 36 392) in 1996 but only 31% of permanent educators in 1993 (again excluding universities in the former TBVC areas). Women enjoyed best representation at the distance universities, Unisa and Vista, where they comprised 44% and 45% respectively of full-time educators.

Of South Africa's 21 universities, only the University of Natal and the University of Cape Town have women vice-chancellors.

Early childhood development (ECD)

Estimates in the early 1990s calculated that between 9% and 11% of all South African children from birth to six years had access to public or private ECD facilities.

- Only 2% of three-year olds were provided for by full-day care and home-based, private or community funded facilities;
- 1 in 4 white infants and children receive ECD services, compared with 1 in 8 Indian and coloured children and 1 in 16 African children;
- Twice as many urban as rural infants and children receive ECD provision; and
- Only about 200 infants and children with disability attended ECD facilities. Half of these were white children.

The majority of children are looked after by parents, relatives, friends, domestic workers, older siblings or no-one at all. There are also few after-school care facilities available. The need to look after children prevents many women from engaging in other activities, and in particular from earning adequate incomes.

Policy

In South Africa ECD is understood as referring to provision for children from birth to at least nine years of age. The White Paper on Education and Training established the government's commitment to provide ECD. It proposed a model of ECD provided by the state in partnership with organisations such as religious groups, women's groups, NGOs and CBOs. In financial terms the state contribution is small. In 1995/6 it was estimated that under 1% of the total education budget was allocated to pre-school children.[4]

Given limited resources, the Department of Education has elected to focus on the Reception year - a single year before entry to primary school which will constitute one of the ten years of free and compulsory education. Other Departments, such as Welfare, are expected to provide for younger children.

The Department of Welfare's assistance comes mainly in the form of subsidies to providers. The Department has taken steps to move away from past racial, geographic, urban/rural and other disparities in the distribution of these subsidies. It is trying, in particular, to spread the limited available resources so as to provide support for creches in rural areas where female-headed households predominate. For example, in the Eastern Cape, funding has been extended to the previously under-serviced and under-funded areas of Transkei and Ciskei. This financing both provides direct employment to women and assists those who are looking for work to go out and actively seek employment. 37 045 children are benefitting from an investment of R2,4m.

Because the Department of Welfare's resources are also limited, and as few employers provide facilities, most women are forced to make their own arrangements for their young children and pay from their own pockets.

The largest non-governmental networks of child care providers are the South African Congress of ECD and the National Educare Forums. Some of the provinces are developing a close network of all role-players. In several cases inter-departmental structures, comprising the Departments of Education, Welfare and Labour, are planned to create a broad ECD network.

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[4] Shindler J. 1996. "Education" in D Budlender. *The Women's Budget*. IDASA: Cape Town.

Staff

There are no recent reliable statistics on the number of personnel involved in ECD. In the past the majority of provincially supported, white pre-primary schools were staffed by tertiary trained pre-primary teachers. This was not necessarily the case with private schools and full-day centres. But the majority of teaching staff probably had some form of post-school education.

In contrast, in 1991 71% of the people working in educare centres in African areas were untrained. Only 4% had formal preprimary training; 17% had received non-formal educare training and the remaining 8% had received formal primary training.

Adult Basic Education and Training (ABET)

The main provider of ABET in South Africa is business, where companies provide adult education for their employees. The next most important form of provision is in the state-run night schools, followed by classes offered by NGOs. The table below gives estimates of provision of literacy in 1994/5, as well as an indication of the proportion of women for each type of provision.

ABET Provision 1994/5

Type/provider	%total	%women
State-run	29%	58%
Business-based	42%	33%
NGO-run	19%	72%
Parastatals/ Municipal	7%	8%
Religious	4%	63%

The larger number of women in the former state-run "homeland" night schools is consistent with the larger number of women living in those areas. Yet the state allocation for ABET has in the last few years represented only around 1% of the total Education budget. In the 1997/8 budget year the previous year's amount was doubled, but still represents only a small proportion of total Education expenditure.

Men constitute the majority in business-based programmes. This reflects the predominance of males in the manufacturing and mining sectors, where most programmes are located. There are substantially more women attending programmes run by NGOs. Many of the NGOs are urban-based and work through churches, clinics, self-help projects and centres of concern for domestic workers. Generally women predominate in smaller programmes which serve fewer people. It is therefore very likely that fewer women than men are being reached by current ABET provision.

Problems encountered by women ABET learners

Participants in ABET experience various problems. These include the distance of centres from where participants live, the cost and unreliability of transport, concern for the family's safety while the learner is at class, concern for their own safety while getting to and from class, child-care and money. As shown in the following table[5], many of these issues are more of a problem for women than for men.

Problems associated with night classes

	Women	Men
Child minding	30%	9%
Transport	43%	29%
Own safety to and from classes	47%	32%
Family's safety while at class	28%	22%

The Ithuteng "Ready to Learn" Campaign

In February 1996 the government launched the Ithuteng "Ready to Learn" Campaign, a Presidential Lead Project of the Reconstruction and Development Programme (RDP). The Ithuteng Campaign was allocated a total of R50m, with a budget of R5,4m and target of 10 000 learners per province. The Campaign focuses on ABET levels one and two, as those where the need is most acute.

The Ithuteng Campaign was launched together with the Thousand Learner Unit (TLU) Project of the National Literacy Cooperation (NLC), the umbrella body for literacy NGOs. The first phase of the TLU had a target of 1 000 learners per province, with the aim of reaching 3 000 at the end of the two-year funding period. Both Ithuteng and the TLU make equal allocations per province despite differing need. This results in under-provision for the poorest provinces, where women and the illiterate predominate.

By the end of 1996, the state Campaign had been launched in six provinces although in some the "launch" did not involve the introduction of any new programmes. The remaining three provinces were hoping to launch the Campaign by February 1997. By the end of 1996 the overall target of 90 000 adult learners had been exceeded, but with marked regional imbalances. There is still a long way to go. The 135 000 learners reached at this stage represent less than 1% of adults who require ABET.

Gender Equity Task Team

The Gender Equity Task Team (GETT) was appointed by the Minister in October 1996 to investigate and advise the Department of Education on the establishment of a permanent Gender Unit in the Department. According to paragraph 67 of the "White Paper on Education and Training of 1995" the Task Team will also advise on:

- means of correcting gender imbalances in enrolment, dropout, subject choice, career paths, and performance;
- the educational and social desirability and legal implications of single-sex schools;
- guidelines to address sexism in curricula, textbooks, teaching and guidance;

[5] Budlender D and Hirschowitz R. Summer 1993/4. "Adult Education, Gender and Access" in *Perspective in Education* 15(1).

- affirmative action strategies for increasing the representation of women in professional leadership and management positions and for increasing the influence and authority of women teachers; and
- strategies, including legislation, to counter and eliminate sexism, sexual harassment and violence throughout the education system.

The Task team was to submit its recommendations by July 1997.

The Department has meanwhile established an Interim Gender Coordinating Committee to coordinate all gender-related matters until such time as a permanent gender equity unit is established. This Committee comprises members from each Branch of the Department and three representatives of the Gender Equity Task Team.

ARTICLE 11: EMPLOYMENT

1	*States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:*
a)	*The right to work as an inalienable right of all human beings;*
b)	*The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;*
c)	*The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;*
d)	*The right to equal remuneration, including benefits and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;*
e)	*The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;*
f)	*The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.*
2	*In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:*
a)	*To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;*
b)	*To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;*
c)	*To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particularly through promoting the establishment and development of a network of child-care facilities;*
d)	*To provide special protection to women during pregnancy in types of work proved to be harmful to them.*
3	*Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.*

Economically active population, employment rates and form of employment

In October 1995:

- 46% of South African women 15 years and older were classified as economically active, compared to 63% of men;
- The rate for women dropped to 38% in non-urban areas, although the non-economically active category in these areas almost certainly included women who do strenuous work in subsistence agriculture;
- 38% of all economically active women were unemployed. The rate was even higher, at 47%, for African women.

Women are more likely than men to be self-employed. Further, the overwhelming majority of self-employed women work alone, while many self-employed men have others whom they employ to assist them.

- 25% of all income-earning women and 33% of African women, compared to 10% of all income-earning men were self-employed.
- 94% of self-employed (and 99% in the case of Africans), worked alone. Only 6% employed others to assist them. On the other hand 46% of self-employed men were employers.

Self employment covers a wide range of activities: from the owner of a large factory or mine to a woman selling fruit and vegetables at the side of the road. The large number of women who work as domestic workers are also classified as self-employed in South Africa's official statistics. Except for the top end of the self-employed group - those who are employers and those with professional skills - self-employment usually provides a much less secure source of income, and also a lower income, than that earned in formal sector wage employment.

Sectoral and occupational distribution

As in other countries, South African women are concentrated in certain sectors of the economy, and in particular occupations.

- 48% of all South African women and 57% of African women recorded as working - whether as employees, employers, or in self-employment - are in the community, social and personal services sector. Many of these women are domestic workers.
- A further 20% (18% African) are in wholesale or retail trade, catering and accommodation services. 12% (11% African) are in manufacturing.

Only 3% of all South African women recorded as working are classified as managers, senior officials and managers, and 4% as professionals. 16% of women are classified as associate professionals or technicians, 20% as clerks, 12% as service or sales workers and 36% as elementary, or unskilled, workers.

All the above figures cover both public sector and private sector employment. A high proportion of the women professionals and associate professionals are employed by the state as teachers and nurses.

Trade Unions

South Africa has a strong trade union movement which plays a major role in determining working conditions. The role has been further formalised with the establishment of the National Economic, Development and Labour Council (NEDLAC) in February 1994 (see below).

The Department of Labour had a record of 2 690 727 members of 248 registered trade unions in 1995. Registered membership thus accounts for just over a fifth of the total economically active population. The 1995 figures are, however, an undercount as they exclude membership in the previous homelands.

Unions are not required to keep gender-disaggregated data on membership. The October Household Survey suggested that:

- trade union membership was higher among wage and salary earning men (35%) than women (29%);
- membership was higher among Africans (39% for men and 36% for women) than for women and men in any other race group; and
- Indians were the only race group in which a higher proportion of women (32%) were trade union members than men (29%).

Women do not, however, achieve even these levels of representation among trade union leadership. The Congress of South African Trade Unions (COSATU) is the dominant trade union federation. At its third congress in 1989 the federation called for affirmative action to promote women's leadership. At that stage all six of COSATU's national office-bearers were men, as well as all nine regional secretaries and all 36 regional office-bearers. The position was not much better in most of COSATU's affiliates. In 1990 the only female general secretary was head of the now-defunct South African Domestic Workers Union. In 1996 women still accounted for only 8% of national and 15 percent of regional, level leadership in COSATU.

Union membership is expected to grow over the next few years. It will grow especially in the public sector and agricultural and domestic sectors, and in rural areas, as workers in these sectors now enjoy rights and protection which were previously denied. In all the newly protected sectors, women predominate, suggesting a possible growth in female membership of unions. Unfortunately, the SA Domestic Workers Union was disbanded in 1996 after many years of financial difficulties.

Institutional Arrangements

Prior to 1994, the Department responsible for labour was called the Department of Manpower. The name itself, since changed to Labour, underscores the sexism in the labour market. The renaming of the Department went together with the establishment of new relationships and ways of dealing with labour issues. On 18 February 1994, NEDLAC was launched in terms of the NEDLAC Act (1994). NEDLAC constitutes the central vehicle for communication and negotiations between government, business, labour and community organisations around economic, labour and development issues. It has been centrally involved in the ongoing amendment of labour legislation.

Since the 1994 elections, South Africa has rejoined the International Labour Organisation (ILO), which has opened an office in Gauteng. The post-1994 government has ratified a number of ILO conventions, namely:

- Convention 87 of 1948, on freedom of association and protection of the right to organise;
- Convention 98 of 1949, on the right to organise collective bargaining;
- Convention 29 of 1930, on forced labour;
- Convention 105 of 1957, on the abolition of forced labour; and
- Convention 111 of 1958, on Discrimination (Employment and Occupation).

The right to work

South Africa has high rates of unemployment. While women and men, and people of different races, have the same "right" to work, in practice the opportunities open to them differ and their rates of unemployment differ, as seen above. Among all racial groups unemployment is higher for women than men.

The International Labour Organisation has suggested that the official South African rate of unemployment may be overly pessimistic. The ILO questions, in particular, possible undercounting of informal work and an inability to distinguish between un- and under-employment. Unemployment remains unacceptably high, especially among women.

In poorer provinces high unemployment rates go hand in hand with a relative scarcity of adult men as a result of migrant labour and lack of employment opportunities. The Northern Province and Eastern Cape have dependency ratios of approximately seven to one employed person compared to ratios of around two to one in the wealthier Western Cape and Gauteng.

Unemployment Insurance
Around a third of applicants for unemployment benefits in terms of the Unemployment Insurance Act are women. The limited provisions of the Act are not adequate to deal with the widespread and endemic unemployment situation in the country. The Act also excludes large numbers of particularly vulnerable workers.

Agricultural workers were only included in the Act in 1994, and the rate of registration by agricultural employers has been very slow. Domestic workers are still not covered by the Act. In 1996 the government established a commission to recommend improvements in the Act. As yet there has been no change in the legislation.

Public Works Programmes
The new government instituted a national job creation programme which by 31 December 1995 had disbursed R180,3m and created a total of 288 972 person-months of temporary employment. 13 055 people were employed on these projects as at end 1995. 21 138 of participants employed up to this time had received training. The programme as a whole was, however, winding down as projects were completed.

Another Public Works Programme aims to provide basic infrastructure - schools, clinics, creches, roads, etc - as well as creating temporary jobs in poverty-stricken, mainly rural, areas. Women are one of the specific target groups for employment. Statistics are not available for the full programme. However, in early 1996 the Department's records showed that 41% of jobs created under the Community Empowerment Programme section of the project- representing under a third of the total allocation - were held by women. Gender is one of the criteria used in the evaluation of consultants for the Programme. The future of this Programme is uncertain.

Equal rights and protection at work

There is no right to work in South Africa. However the country has moved some way towards providing equal rights and protection to those fortunate enough to find a job.

A unified system of labour laws

The Integration of Labour Laws Act was passed in November 1994 and came into effect in September 1996. The Act extended labour legislation to the previous homelands. This extension had important gender implications given the overall predominance of women among the economically active population of the former homeland areas, as well as the often poor labour conditions prevailing there. The Department of Labour has had to assist officials from the previously excluded areas in becoming familiar with the new legislation. Further, while instruments such as the Labour Relations and Wage Acts now apply to these areas, to date few workers in them are covered by Wage Determinations or Industrial Council agreements.

The Labour Relations Act

The new Labour Relations Act (1995) came into effect in November 1996, after a long period of consultation and discussion. Historically some of the most vulnerable sectors - agriculture, mining and domestic labour - have been exempt from the laws applicable to other sectors. They have either had their own special legislation or virtually no protection at all. As early as January 1994, the Labour Relations Act had been extended to cover agricultural workers. The extension to domestic workers took effect at the same time as the amendment.

The Act :

- provides for procedures in hiring, promotion, training and remuneration and also regulates collective bargaining;
- establishes a Public Service Co-ordinating Bargaining Council. This is important for women, given that 17% of all women in formal employment are employed in the public sector;
- introduces the residual unfair labour practice. This extends the concept of the unfair labour practice to pre-employment selection;
- stipulates that a dismissal is unfair if the reason is related to existing or intended pregnancy;
- prohibits unfair discrimination "either directly or indirectly, against an employee on any arbitrary ground, including, but not limited to race, gender, sex, ethnic origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language, mental status or family responsibility."

The Basic Conditions of Employment Act

Current provisions

The Basic Conditions of Employment Act (1983) regulates conditions in the workplace. In May 1993, the Act was extended to cover agricultural workers and in January 1994 to cover domestic workers. This was important for women, who predominate in these sectors. At present the Act covers all workers in private and local government employ, but excludes other state employees.

Since the extension of the Act to agricultural and domestic workers, the Department has engaged in limited activity to educate workers and employment. There are no accurate figures as to compliance, but the indications are that it is very low. Staff shortages, delays and inadequacies in the court system have meant that there have been few prosecutions of defaulters.

The new Bill

The post-apartheid Department of Labour established a new Directorate of Minimum Standards. In February 1996 the Directorate released a Green Paper on Employment Standards in which it proposed new legislation to replace the Basic Conditions of Employment Act. The Green Paper was followed by a draft bill as the basis for further negotiations within NEDLAC.

The Basic Conditions of Employment Bill (1997) addresses the special needs of pregnant, lactating and disabled women by preventing dismissal or denial of employment on these grounds. It requires that, where necessary, alternative work be made available during the pregnancy and for a period of twelve months after the birth.

The Bill follows the approach of the new Labour Relations Act in extending protection to previously unprotected workers. In particular, it extends protection to workers in atypical or non-traditional forms of employment i.e. those who are not employed in full-time, permanent jobs. This will be important for women, who are less likely than men to work in "standard" jobs.

Maternity leave

The government has not yet ratified Convention 156 which focuses on workers with primary responsibility. The Basic Conditions of Employment Act provides for a period of maternity leave. At present this is unpaid except for those covered by the Unemployment Insurance Act. Even those who are covered receive only a proportion of their former wages while on maternity.

The Bill also proposes an improvement of maternity leave to four months, job security for women on maternity leave with no probation period, and three days paid family responsibility leave for all workers. The clause on maternity leave has become one of the issues of particular contention. Unions are demanding six months fully paid leave while employers favour the status quo. The Department has established a task team to investigate this issue.

Regulated flexibility

Another issue of dispute between business and labour is the notion of 'regulated flexibility' introduced in the bill. This suggests that the Act would set basic standards, but these could be varied for given periods in specific circumstances. Business favours less regulation and greater flexibility in terms of variation of standards. Labour is concerned that variation of standards will allow for a deterioration in conditions in sectors which are less organised or where workers are more vulnerable. These would include agricultural and domestic workers, as well as those in more rural areas and smaller businesses. They would also include sectors such as clothing and textiles, which have been subjected to increasing competition with the opening up of the economy internationally. Again these are all sectors in which women tend to predominate.

The averaging of working hours

A third area of concern for women is the proposal that employees work a maximum of nine hours per day, 45 hours per week; to be extended to 12 hours a day with no overtime as long as the 45 hour weekly limit is not exceeded when averaged over a period of four months. Long hours pose particular problems for women workers. They will suffer from increased exposure to violence in the early morning or at night, as well as increased pressure in terms of their daily domestic duties.

Child labour
The Basic Conditions of Employment Bill includes strategies to reduce the level of child labour and prevent abuse. The extent of child labour in South Africa is unknown, although there are reports that it occurs on a fairly widespread basis in sectors such as agriculture and domestic work. There is also increasing concern about the level of child prostitution. The Department of Labour, in collaboration with the ILO and Central Statistical Service (CSS), is planning a national survey to establish the extent and nature of child labour. The results of the survey will then inform possible legislative changes.

The Need for More Information
More generally, the Department of Labour has recognised the need for more accurate information on the labour market in order to be able to engage in effective policy-making. Areas in which the Department is concerned to improve its information include knowledge of applicable labour standards, especially with respect to the status of women in the workplace, small employers and workers in particularly vulnerable sectors such as domestic work and agriculture.

Employment opportunities

The principle of equity did not feature in labour market programmes administered by the former Department of Manpower. The Department of Labour's current five-year programme provides for the establishment of a Directorate of Equal Opportunities with responsibility for:

- promoting the interests of disadvantaged groups;
- administering equal opportunities; and
- administering policy aimed at strengthening formations of civil society.

The Directorate has initiated the elimination of racial and gender imbalances in workplaces throughout the economy. An Affirmative Action Policy Development Forum was constituted in March 1995. The Forum, in consultation with a a range of stakeholders, drafted a Green Paper on Employment and Occupational Equity. The Green Paper was distributed for public comment in 1996.

The Paper reviews existing workplace bias on the basis of gender, race and disability. It discusses pay differences and other non-payment forms of discrimination in hiring, promotion, training and remuneration. It proposes an Employment Equity law which would require employers to draw up and report on employment equity programmes.

Training

Training registered by government
The Manpower (sic) Training Act (1981) gave the state the authority to register and accredit industry training boards. Approximately thirty such training boards are registered. Of these, twenty are responsible for apprenticeship training in their respective industries. Outside of hairdressing, women account for a minute proportion of formally recognised apprentices and artisans.

The Department of Labour has several other training initiatives. These include:

- a scheme for the training of those 21 years and older to become artisans. The total number trained is around 200 per year;
- accreditation, through trade tests, of people who have undergone training or gained experience of a similar nature to apprenticeship. The figures here are also around 200 a year, again concentrated in male-dominated occupations such as construction electrician, fitter and turner, and mechanic;
- approval, at the request of a group of employers, of training schemes for specific industries with levies binding on all employers. In 1995 there were 18 such levy schemes.

There are no gender-disaggregated statistics for any of these initiatives. Most have a heavy male bias. However, included among the 18 approved training schemes were some where significant numbers of women workers could have benefited. These included the Clothing Industry, Hairdressing and Cosmetology Industry, Hospitality Industry, Information Technology Industry and Textile Industry. A further five training schemes - which included clothing in specified regions - were registered under section 48 of the Labour Relations Act.

Training currently provided by government

The government's nine regional training centres provided training for 26 506 workers during 1995. The extent of the training provided is limited, with an average duration of 1,4 weeks. The most heavily subscribed courses are in labour relations (5 973 workers trained, agriculture (5 485), mobile plant operation (3 555), motor vehicle driving (3 553) and security work (2 916).

The state subsidises training in agriculture by paying 75% of the prescribed fee and, in addition to the 5 485 recorded for agriculture, many in other courses would also be farm workers. The state also subsidises 60% of the training fees for workers employed by enterprises with fewer than 200 employees. Both agriculture and smaller enterprises employ a significant number of women. While the state provides no breakdowns, previous research suggests that women farm workers are largely confined to courses such as home economics.

The training centres are all situated outside the former "homelands". There were a number of training institutions in the latter areas, ranging from Section 21 training trusts to state Manpower (sic) Centres. In 1995 these centres provided training for a total of 18 340 people, with the largest concentrations in business management (4 071), community development (3 719) and entrepreneurship (3 198). Again no gender breakdown is provided. Potentially, however, these centres could be an important resource in terms of the women-dominated population of these areas.

In the 1995/6 financial year R80m was allocated for the training of unemployed persons. This is done on a contractual basis by over 500 different training providers. In 1995, 131 790 people received training under this scheme. Of these, 43 999 (33,3%) were placed in jobs. The statistics are not disaggregated by gender.

New directions in training

The above schemes were all established during the apartheid era. The new government has embarked on a wholesale reconceptualisation of the education and training system of the country. The Departments of Education and Labour collaborated in overseeing the passing of the South African Qualifications Act (SAQA).

The Act lays the basis for a National Qualifications Framework (NQF) which forms a key component of the country's new National Training Strategy Initiative. The Initiative is one of the building blocks of a human resource development system in which there is an integrated approach to education and training.

Green Paper on A Skills Development Strategy

In March 1997 the Department of Labour released its Green Paper on *A Skills Development Strategy for Economic and Employment Growth in South Africa.* It is hoped that this will be translated into legislation by the third quarter of 1997. The new approach should see a significant increase in the extent of vocational training in the country. The Paper proposes a National Training Fund to which employers will contribute levies of between 1 and 1,5% of payroll. The Paper does not deal with paid time off for training. It does, however, stipulate that at least one half of training must be at artisanal or lower level, thus avoiding the past focus on management or more skilled employees.

The Paper proposes grants as incentives to employers to reach certain priority skills targets, support new labour market entrants, and assist small enterprises. It proposes that 20% of funds from levies, government and other donors be allocated to a national skills fund for national priorities.

The Paper is clear that its concept of training extends beyond formal institutions, and covers all levels of "applied learning" from low to high skills levels. It extends learnerships beyond apprenticeships to cover all combinations of structured learning with relevant work experiences as long as there is formal assessment and accreditation. It extends the idea of placement to include job creation schemes, development programmes, and small and medium-sized enterprises.

This broad understanding is important for women, who are less likely than men to find themselves in formal, "standard" work situations.

Target groups

The Green Paper introduces the concept of target groups. These consist of several defined categories of disadvantaged women, youth or disabled people. It proposes that employers should target these groups in line with the government's Green Paper on Employment Equity, and that incentives should be developed to encourage such targeting. The Paper refers to the need to encourage women to enter non-traditional fields although it does not specify how this is to occur. It also states that special efforts will be required to ensure that learnerships are designed for areas of so-called "women's work". While advocating private sector provision, the Paper recognises that the state must take the final responsibility for addressing any failures of the private sector to provide for "vulnerable" groups.

A Subdirectorate: Special Employment Programmes (Target groups) has already been established within the Department of Labour. A budget is being developed, as well as a business plan with performance indicators, to ensure that target groups get focused attention.

The Chief Directorate in which the Subdirectorate is located is committed to counteracting gender stereotyping, prejudice and discrimination by caretakers (e.g. teachers, parents, community workers), career guidance practitioners and employment officers.

The Chief Directorate also plans:

- to address female student drop-out rates and organise programmes for young women who have left school prematurely;
- to combat violence against women and sexual harassment through information and awareness-creating programmes;
- to provide information and training to assist women and men in coordinating their family and work life through education programmes aimed at employers, unions as well as individual women and men;
- to network with community workers so as to address the particular problems of rural women; and
- to work with organisations for people with disabilities to provide for their special needs.

Equal pay

Since 1981, both the Wage Act and the Labour Relations Act have outlawed different rates of pay for women and men doing similar jobs. These regulations are of limited practical effect. Firstly, they only govern minimum wages. Secondly, and more importantly, women and men are usually employed in different sectors and different jobs. South Africa has no legislation for equal pay for work of equal value.

Work-related social security

The Unemployment Insurance Act provides for payment of 45% of the previous monthly wage to workers who are not earning due to unemployment, prolonged illness or maternity. The Unemployment Insurance Fund is funded by equal contributions of workers and employers equal to 1% of earnings. Benefits are paid for a maximum of six months, and this maximum is earned through three years contribution. Where a woman claims for maternity leave, this claim is offset against any claim she might make on account of unemployment for any other reason. This constitutes gender discrimination in that men never need to claim maternity leave.

The Unemployment Insurance Act was extended to cover agricultural workers in 1994. It still does not cover domestic workers. The benefits are low, and would be particularly so for low earners such as domestic workers. Nevertheless, their exclusion from the Act leaves them without any form of social security at times of unemployment or maternity. The Act also does not cover part-time workers employed for less than eight hours a week, those employed by their spouse, casual or seasonal employees, and home-workers. These are all categories in which women predominate.

Women form the majority of workers in the informal sector, where wages of employees are generally lower, and where there are no social benefits either for employees or the self-employed.

Health and safety

The Occupational Health and Safety Act (1993) came into effect in January 1994. The Act establishes an Advisory Council for Occupational Health and Safety with labour representation. It requires that there are designated health and safety representatives and committees at the local plant level. The legislation also makes specific provisions regarding the employer's duty to inform her/his workers about health and safety issues. The Act does not make any specific mention of reproductive hazards.

Occupational health legislation contains protective clauses which aim to protect women from reproductive hazards such as lead. These clauses can be considered as discriminating against women in that they restrict women to working in certain jobs. Health legislation has ignored possible reproductive health hazards which could affect male workers.

Women have the same rights as men under the Compensation for Occupational Injuries and Diseases Act. The Act is, however, silent with regard to reproductive outcomes from occupational exposures.

Child Care

There are insufficient early child care facilities to meet the needs of women. Most schools for older children do not provide after-school care facilities which would make it easier for parents to work a full day (see Article 10).

ARTICLE 12: EQUALITY IN ACCESS TO HEALTH CARE

1	*States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health services, including those relating to family planning.*
2	*Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.*

Health profile

Health care services

There are still severe imbalances in access to health care among South Africans. Overall the ratio of doctors per 100 000 population is 48,8, that of nurses 278,1 and dentists 9,4. The provincial extremes in the ratios are 127,4 doctors, 618,4 nurses and 109,0 dentists per population in Gauteng, compared to 15,5 doctors and 1,4 dentists per 100 000 in Northern Province and 273,5 nurses in Mpumalanga.

South Africa has approximately 300 000 traditional health workers. These include traditional healers and traditional birth attendants. Although no statistics are available, it is clear that the majority of traditional health workers are women. In some areas community health workers promote primary health care at community level. They also assist communities in implementing community-based care for chronic and other illnesses. NGOs play a major role in the funding, training and provision of community health workers. Some provinces also fund community health workers from their budgets. The role of these workers is being threatened as NGOs face funding crises and the Department of Health itself has a limited budget.

Women's health-specific workers include midwives, family planning nurses and limited numbers of obstetricians and gynaecologists. South Africa has approximately 75 000 midwives and 739 obstetricians and gynaecologists.

There are eight public academic health services complexes (tertiary level), 425 hospitals, 153 community health centres and 2 953 clinics spread throughout the country. The Department of Health is committed to strengthening further the level of primary health care provision. In addition there are 217 private hospitals and 74 private day clinics.

71 (33%) of the private hospitals are in Gauteng, compared to 4 (2%) in Northern Province. 44 (59%) of the private day clinics are in Gauteng and none in Northern Province.

Health Indicators

Causes of death and illness

The major causes of female deaths are high blood pressure, problems related to pregnancy; bleeding before, during and after delivery; septic abortion; prolonged labour; and cancer of the cervix.

Birth-related causes are responsible for 33% of infant and child deaths, diarrhoeal disease for 19%, acute respiratory infections for 8% and nutritional deficiencies for 5% of deaths.

In summary, the majority of infant and child deaths are related to poor socio-economic conditions and could be prevented.

Maternal deaths related to childbirth

Maternal mortality rates measure the number of women dying for every 100 000 live births. These rates differ markedly along racial lines. Estimates are unreliable due to poor reporting. Official figures for 1992 range from 2 per 100 000 live births for Indians to 58 per 100 000 for Africans. However, indirect demographic techniques put the estimate at around 250 in 1991 for African women. A community-based study conducted during 1992/3 using the Sisterhood method revealed maternal mortality rates of approximately 400 per 100 000 live births. A National Committee for the Confidential Enquiry into Maternal Deaths has been established. Compulsory notification of maternal deaths will start in late 1997, and will involve communities, the public and the private sectors.

Infant and child deaths

Current data on infant and child deaths are neither fully gender-disaggregated nor complete. The latest available statistics still exclude information from the former homelands. In addition, there is serious under-reporting of both births and deaths. In 1994 it was estimated that fewer than 20% of all births were registered. The percentage was estimated to be under 4% in the rural and poverty-stricken Northern Province. Reported infant mortality rates were 54,7 deaths per 1 000 live births for African infants, 36,2 for coloured, 9,9 for Indian and 7,3 for white. The more rural areas had the highest infant mortality rates.

Life expectancy

Life expectancy measures the number of years that a newly born child can expect to live. As shown in the table below, there are significant racial differences in life expectancy. In addition, however, women of each race group have a longer life expectancy than men of the same group.

Average life expectancy 1995 (years)

Race	Women	Men	All
African	68,2	63,5	65,8
Coloured	68,5	62,6	65,5
Indian	73,0	67,3	70,1
White	76,6	69,9	73,2

Fertility

Estimates of the total fertility rate - the average number of live births per women - range from 3,5 to 6,1. The fertility rate is highest among African women and lowest among white women. Overall it is estimated that 70% of pregnant women go to a health facility at least once during their pregnancy for antenatal care. Detailed figures are not available, but it is clear that urban areas have higher rates of antenatal attendance than rural areas.

Behaviour risky to health

Research shows an ongoing increase in the proportion of adults who smoked. In 1995, 34% of South African adults smoked. Over half of all men smoked, compared to 17% of women. The Department of Health has taken a strong stand against smoking, including restrictions on advertisements. Its anti-tobacco campaigns address all members of the population, but include a special focus on pregnant and breastfeeding women.

Major health problems

Nutrition

Malnutrition has two important gender-related aspects. Firstly, approximately 16% of babies born to poorly nourished mothers will have low birth weight, with serious consequences for their subsequent growth and development. It is estimated that as many as 30% of South African children could be stunted. Further, many children and pregnant and lactating women suffer from deficiencies of micro-nutrients such as iron, iodine and vitamin A. Approximately a quarter of all women are said to suffer from iron deficiency anaemia.

Pregnant women attending state services for antenatal care routinely receive iron, vitamin and folate supplements. Women are also assisted nutritionally through the Community Based Nutrition Component and the Protein Energy and Malnutrition Scheme of the government's Integrated Nutrition Programme. The former attempts, through community-based initiatives, to improve women's position with regard to household food security. The latter operates from state health facilities and assists individuals - both women and men - diagnosed as being malnourished. The Integrated Nutrition Programme also promotes breastfeeding through advocacy, training and education programmes aimed at pregnant and lactating women.

The Department of Health plans to implement a National Nutrition Surveillance System as part of the National Health Information System. One of the foci of the System will be the nutritional status of pregnant and lactating women. The Department of Health also has programmes promoting a healthy lifestyle. These target young women and attempt to counter the influence of the media in promoting the stereotype of the thin, anorexic looking woman.

Tuberculosis (TB)

TB remains a serious public health problem in South Africa. It accounted for over 80% (74 650 cases) of all reported notifiable disease in 1995. These figures are an underestimate given poor notification and undetected cases, particularly in the more rural areas. The overall tuberculosis incidence rate is estimated at 239 per 100 000 women. Women of childbearing age have a higher risk of developing active TB than men of the same age group. Among women aged 15-44 years, the rate is 269 per 100 000. Racially, the rates differ - at 612 per 100 000 coloured people, 159 per 100 000 African, 64 Indian and 14 white.

A national TB register has been introduced under the South African Tuberculosis Programme.

Sexually transmitted diseases

STD (sexually transmitted disease) services are provided as part of primary health care services. They include reproductive health services such as family planning, antenatal and baby clinics. Appropriate drugs for treating younger and older women with STDs are available on the Essential Drugs List. The syndromic approach to the management of STDs is used. This includes health education, counselling, the promotion of the use of barrier method and partner/contact management. Extensive training is underway to re-orient health care providers in the public and private sectors to adopt this approach.

Asymptomatic STDs are those where the person has no symptoms. These are far more common in women than men. As yet there are no screening programmes for asymptomatic STDs in place. Awareness campaigns planned for 1997 will include this topic.

HIV/AIDS

In the South African HIV/AIDS epidemic it is predominantly those involved in heterosexual relationships who are infected. More women than men are affected. As in other countries, those who are poor and otherwise marginalised, are more likely to contract the disease than those who are more privileged.

The Department of Health conducts national surveys on an annual basis among women attending state antenatal clinics. The latest survey, of October/November 1996, found an average of 14% of all pregnant women attending antenatal clinics to be HIV+, with significant geographical differences. HIV infection peaks in women in the 20-24 year age group. It is 19% among teenage mothers, indicating high vulnerability among young women. Levels are highest among African women. An HIV-positive person is at increased risk of contracting TB. Simultaneous TB and HIV hastens the development of both diseases.

Female condoms - or femidons - are one possible method of preventing HIV transmission where the male partner is uncooperative. The Department distributed a consignment of female condoms in 1996 to women attending certain clinics as part of a study to establish their acceptability, and for demonstration purposes as part of HIV/AIDS/STD training. The study showed that female condoms are acceptable to specific groups of women. Further supplies will be made available as part of a still to be defined introductory strategy. Female condoms are also available on a limited basis as part of a social marketing programme.

Health care workers, the majority of whom are women, are the major providers of HIV/AIDS related counselling, particularly in the health care setting where HIV tests are performed. In the home and community, the care-giver is most often a woman. As yet, however, there has been no special focus on women as health care givers in the context of HIV/AIDS.

Cancer

The incidence rate for cancer in 1988 was 146 per 100 000 women and 163 per 100 000 men. The most common cancers for women were cervix, breast and skin. The rate of cervical cancer in 1991 was 35,4 per 100 000. Disaggregated by race and location, it varied between 3,3 for urban whites and 25,7 for urban Africans, with no data for Indian women and rural Africans.

The mortality (death) rate for cervical cancer between 1884 and 1986 was 23,1 for African urban women, compared to 3,8 for white urban and 3,5 for white rural. There was no figure for rural African women. The mortality rate for breast cancer was 9,6 for urban African women and 26,0 and 21,8 for urban and rural white women respectively.

There is no public national breast or cervical cancer screening programme. Screening is promoted by NGOs and some stakeholders in the private sector. A Technical Committee of the National Cancer Control Programme is developing a policy for the government. The national Department has tasked Free State and KwaZulu-Natal with implementing province-wide screening programmes, and is encouraging pilot projects in other areas of the country.

Immunisation

Approximately 90% of one year old children have an immunisation card. 70% are considered fully immunised. Children in rural areas are less likely than those in urban to be immunised.

The Department of Health routinely includes measles, rather than combined measles, mumps and rubella (MMR) in the childhood immunisation programme. Thus, while the rate is generally high, there is no protection against rubella, a disease with particular dangers for pregnant women and their offspring. MMR is available on the private market, but must then be paid for by the patient or guardian. The Department is in the process of evaluating new vaccines, including those for rubella, for a revised immunisation approach.

Access to health care

One of the first new programmes introduced by the 1994 post-apartheid government was free health care for pregnant women and children under six at state clinics and hospitals. In mid-1996 the provision of free primary health care was extended to all South Africa residents, whether female or male. The government's Clinic Building Programme facilitates access to health care for both rural and urban women by reducing distances to health care facilities. These programmes reduce financial, time and other barriers to access to health care.

An independent evaluation of the programme for pregnant women and young children found a definite increase in the number of women booking for antenatal care, and a consequent reduction in the proportion and numbers of unbooked deliveries.

There are no gender-disaggregated statistics on clinic attendance. The special programmes and increased services should have increased access for women. Services like Midwifery Obstetric Units and Family Planning Clinics provide services either exclusively, or primarily, to women. Male participation in family planning is, however, being encouraged through advocacy, social marketing health education and life skills programmes targeting youth in and out of school.

Obstacles to use of health care services

Women's ability to access health facilities depends on a range of factors beyond mere availability of services. These include the control that a male partner or other family member exercises in decision-making over utilisation of time, resources and freedom of movement. The nature of the professional background and training of health workers may also present barriers to communication and care. Restrictions on the scope of practice of nurses may impact negatively on services where doctors and other health personnel are scarce.

There are no legal obstacles to women's receiving health care services. There are, however, cultural beliefs and practices that prevent women from utilising health care services. The public transport system can hinder access, in that it is poorly developed, particularly in rural areas. The government does not provide any transport exclusively for the purpose of making health services available to women. However, mobile units and 4x4 vehicles make facilities more accessible by bringing them closer to where people live and work.

Many public clinics still lack basic facilities. The long-term strategy of Eskom, the main electricity supplier in the country, prioritises provision of electricity in rural clinics and schools. The agreement on the recent sale of Telkom includes similar provision for providing telephones.

Clinics are planned to cater for physically disabled people, as well as women pushing perambulators. Recently built toilets include baby nappy changing areas.

Quality of care
Emphasis is placed on quality of care and sensitivity to the needs of individuals - and of women seeking health care in particular - in the re-orientation of health workers. An NGO, the Women's Health Project, has developed a tool for monitoring health workers' sensitivity to women's health needs. The Project is testing this tool for the Department in four provinces. Already significant improvements have been reported in the quality of care provided by health workers and the relationships between health workers and the women they serve.

The Department of Health is developing a model for women-focused mental health care at the primary health level. Currently specific mental health services are provided mainly by NGOs and, to a lesser extent, by the private sector. Such services include counselling for survivors or rape and other forms of violence, shelter for battered women, and empowerment programmes for abused women. These services are largely restricted to metropolitan areas.

Reproductive Health

The National Department of Health has a Directorate: Maternal, Child and Women's Health which oversees policy development and liaises with provincial health authorities regarding implementation. Each of the provinces has its own Maternal, Child and Women's Health component.

The government's commitment to reproductive health issues covers the areas of:
- contraception and family planning;
- antenatal, delivery and postnatal care;
- sexually transmitted disease prevention and treatment; and
- termination of pregnancy.

Contraception
1994 contraceptive prevalence rates were 50% of African women, 74% coloured, 77% Indian and 80% white. Overall breakdown by method is not available but 40% of African women who use contraception use injectable contraceptive methods such as Depo Provera.

Barriers to contraceptive use include male dominance, cultural myths, and poor access to health services. These are being addressed through:
- reorientation of health workers to be more sensitive to the needs of women;
- health promotion and educational programmes aimed at increasing male involvement in reproductive health;
- increased availability of free contraceptives in public facilities; and
- more generally through improved access through the clinic building programme and free primary health care.

In practice, some health workers might ask for the husband's authorisation before supplying contraception to a woman. This is not a legal requirement. The law does, however, require that any child under sixteen years of age obtain parental consent for health care - including contraception - except in the case of an emergency.

Teenage pregnancy

Teenage pregnancy is of increasing concern (see Article 10). It has a negative impact on the development of young women, in that teenage mothers are often unable to finish school, are less employable, and locked into unwanted motherhood, poverty and the lack of opportunities to achieve their full potential. The Welfare Department of the Northern Cape has held community meetings throughout the province in preparing for a comprehensive programme aimed at eliminating teenage pregnancy.

Abortion

Prior to 1996, a legal abortion was only available in very restricted circumstances, and on recommendation by at least three doctors. In practice, access to abortion was severely limited and available primarily to white women. Many black women were forced to find other, far less safe, ways to terminate their pregnancies when they felt unable to continue. Women with incomplete abortions were and are treated in all health facilities. However, delays in seeking help often resulted in complications, and in the women requiring more advanced medical care than would have been necessary had they been seen earlier. In some cases, delays and problems led to death. In 1995 over 400 women are estimated to have died from complications of septic abortions.

Since the introduction of the Choice on Termination of Pregnancy Act (1996) on 1 February 1997, termination of pregnancy is legal up to twelve weeks of pregnancy upon request by the pregnant women, and between the thirteenth and twentieth week under certain conditions and upon recommendation by a medical practitioner or midwife. These conditions include the socio-economic situation of the woman, rape, incest and the health risk to the woman.

South Africa has no national medical insurance system. A small proportion of the public are members of private medical aid schemes. Few of these presently cover abortion-related services. As part of the provision of free health care services to pregnant women, women seeking termination of pregnancy in public facilities are not charged any user fees.

An NGO, the National Progress Primary Health Care Network, is monitoring both the implementation of the new Act and violations of health rights more generally.

Sterilisation

Sterilisation is available for both women and men who choose to have the operation performed. Although statistics are not available, it is clear that sterilisation is performed far more frequently on women than on men. Spousal consent is not required in law for voluntary sterilisation. In practice it is often required. There are no laws which require or mandate sterilisation under specific circumstances.

Menopause

At present services for menopause are available only at hospital level. The Department has plans to offer these services at primary health care level in the future.

ARTICLE 13: SOCIAL AND ECONOMIC BENEFITS

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

a) The right to family benefits;

b) The right to bank loans, mortgages and other forms of financial credit;

c) The right to participate in recreational activities, sports and in all aspects of cultural life.

Social Security covers a wide variety of public and private measures. These measures aim to provide cash or in-kind benefits when a person is temporarily or permanently unable to earn money to support themselves and their dependants. Social Security is a right entrenched in the Constitution. Social pensions and grants are probably the government's most effective poverty alleviation programme at present.

At present, means-tested state grants are provided primarily for the aged, for the disabled, and for single parents and their children. In addition approximately 10 000 beneficiaries receive care dependency grants to help them care for severely disabled children. 40 000 foster parents receive foster child grants. In both cases the maiority of recipients are women.

Child and family grants

At present, the state maintenance grant system provides support to needy families and children. Maintenance grants account for 15% of the overall social security budget and reach approximately 146 400 parents and 203 200 children, giving a total of 349 600 beneficiaries.

The current system is racially and geographically inequitable. If the grant were extended to all potential beneficiaries in its current form and at the current level, it would not be affordable. Further, the current system is ineffectively targeted at poor and rural communities. Meanwhile the disarray in the private (judicial) maintenance system for child support and the weak culture of parental responsibility mean that single parents turn to the welfare system for support even where the other parent of the child could afford to contribute.

The Lund Committee on Child and Family Support

In 1996 the Department of Welfare appointed the Lund Committee on Child and Family Support to investigate the problem. The Committee found that the present system is unsustainable. It was estimated that it would cost the government between R5 billion and R20 billion annually, rather than the current R1,2 billion, if all applicants eligible for the grant under the present conditions applied.

Key recommendations made by the Lund Committee include:

- the phasing out of the present state maintenance grant system, and in particular the parental allowance of the grant;
- the phasing in over a five-year period of a flat-rate child support benefit paid to the primary care-giver;
- the application of a simple means test;
- the reform of the judicial maintenance system; and

- seeking synergy between primary health care, social assistance for poor children and developmental welfare programmes.

The level of the new grant would be based on an objective measure of the costs of feeding a child. The grant would be paid for children 0 - 9 years.

In March 1997, Cabinet approved the recommendation to phase out the state maintenance grant and to phase in a new child support benefit. The new child support benefit programme represents an effort to deracialise the grant, to make it accessible to rural children and, in so doing, to meet the government's commitment to correct the imbalances of the past.

The programme aims to reach the three million poorest children by the year 2005. Cabinet has added to the current R1,2 billion per year an additional allocation of R1,5 billion for each of the next five years. A further R75 million has been provided for this financial year to kickstart the phasing in of the programme.

Many of the difficulties ahead lie with the poor management and administrative systems in the delivery of the grants. The Committee for Restructuring of Social Security (CRSS) recommended that effective management systems be set in place, together with uniform procedures and guidelines. The national Department has embarked upon this process with the cooperation of the provincial departments of welfare. It will be carefully monitored as the child support benefit programme is implemented.

Intersectoral collaboration

The level of the child support grant is intended to cover the costs of feeding a child and is supplementary to other household income. The grant will not cover rent, transport and other household expenses. If taken with other government programmes such as free primary health care, the government will be spending more than R200 per child per month.

The support of other government departments will be necessary if the child support programme is to provide meaningful assistance. The Justice Department has already established a task team to redress the problems surrounding the private maintenance system. Other government departments co-operating in the initiative include Home Affairs (for registration of births); Health (for the free health care programme); Trade and Industry (for small, medium and micro enterprises for poor women with children); and Public Works (employment opportunities for poor women who do not qualify for this grant). The Welfare Department's own Social Development unit, and in particular the Community Development programmes, also provide opportunities for poverty-stricken women and children who do not qualify for social grants.

Old age pension

State old age pensions of up to R470 per month are available for poor women from age 60 and for men from age 65. In mid-1995 approximately 1,7 million elderly people were receiving these pensions, which accounts for 60% of the social security budget. Close on nine out of ten households receiving these pensions are African, and two-thirds are rural.

The take-up rate is the percentage of people eligible for a benefit who actually receive it. This rate is slightly lower for women than for men, despite the fact that women can claim from an

earlier age and also tend to live longer. The reason for the lower take-up rate is unknown. It could include both lesser knowledge of rights, and some discrimination on the part of government officials and traditional authorities. Many rural women also still experience difficulties in terms of long distances to, and long waits at, pay-points; long delays, or incorrect payments.

Implementation of the recommendations of the CRSS, mentioned above in connection with child and family benefits, should help address many of these problems. Meanwhile, despite the problems, old age pension plays a critical role in the alleviation of poverty in the country. It is well-targeted to those who are poorest, to rural areas, and to women because of their generally longer lives.

Sport

Women face many obstacles in attaining equality in sport. These include:

- inaccessibility and lack of facilities and information;
- facilities that do not provide for women's needs in terms of safety, child care, ablution, etc;
- inadequate media coverage of women's sports activities;
- cultural stereotypes that discourage women and girls from participating, or restrict them to certain sports; and
- sexual harassment.

The Department of Sport and Recreation was created in July 1994. Most of its staff came from the previous racially exclusive Departments of Education. Much of the attention of the new Department is still focused at the school level (see Article 10), in the hope that children, at a young age, can be encouraged to reach their full potential. The Department of Sport and Recreation has also embarked on a series of programmes and projects aimed at accelerating equality in sport between women and men of all ages.

The Department held a workshop on Women and Sport to develop a national strategic plan to encourage participation by women at all levels. The workshop culminated in a regional workshop where structures were established to implement the proposed programmes. The Department's policy of assisting civil society organisations is based on affirmative action. Its objectives include:

- promotion of programmes that empower and develop women and girls in sport;
- creation of greater awareness and raising the profile of women and girls in sport;
- according recognition and promoting leadership and representation among women and girls in sport;
- promoting among women the recognition of the benefits of sport;
- liaising and creating networks at local, national and international level;
- ensuring that sport and recreation needs of women and girls are reflected in policies and programmes which are annually reviewed and evaluated; and
- ensuring that safe and accessible facilities are available.

R10 000 000 was allocated in the 1997/8 budget for sport and development programmes. R1 600 000 is for affirmative action programmes which will include initiatives focusing on women.

Arts and Culture

World-wide there has been a distinction between what is seen as "art" and what constitutes "craft". Generally, the products of those who are poor, rural and female have been labelled "craft" and accorded lesser value than the "art" of those who are more privileged. In South Africa women making baskets, beadwork, pottery or weaving have worked long hours and with great skill, but have received little recognition of their artistry and little financial reward.

The Department of Arts, Culture, Science and Technology has appointed a deputy director for Cultural Industries. This officer will be responsible for marketing and improving the status of traditional and modern products. Successful promotion of craft and local culture will enable some of the more disadvantaged and marginalised people in South Africa to benefit from the growing tourism industry.

The Department of Arts, Culture, Science and Technology also funds a number of women's art projects. The Department has, for example, funded a course for domestic workers in crafts production, a women's cultural festival in Alexandra township; a rural women's arts festival and study bursaries to women.

Huge gender disparities remain throughout the cultural sector. When the Department recently requested funding proposals for a film project, only 37 of the 300 proposals were from women. The Deputy Minister has since lent her support to a recently launched initiative which aims to support and empower women in the film industry.

Credit

It is still common practice for private financial institutions to require that women borrowers have a male mediator or spouse before they can receive credit. In institutions where women can access credit, they often do not have any assets to their name to serve as collateral.

The Departments of Agriculture and Land Affairs have begun to address the problem as it affects rural women (see Article 14).

ARTICLE 14: SPECIAL HELP FOR RURAL WOMEN

1	*States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of this Convention to women in rural areas.*
2	*States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:*
a)	*To participate in the elaboration and implementation of development planning at all levels;*
b)	*To have access to adequate health care facilities, including information, counselling and services in family planning;*
c)	*To benefit directly from social security programmes;*
d)	*To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services in order to increase their technical proficiency;*
e)	*To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;*
f)	*To participate in all community activities;*
g)	*To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;*
h)	*To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.*

Introduction

Just over half the South African population lives in non-urban areas. The urban-rural split differs between the provinces. The poorest provinces are also those where a larger percentage of the population is rural.

The demographic profiles of rural and urban areas also differ. Women and children dominate the population in rural areas. While this is the case in many other countries, the pattern in South Africa has been exacerbated by influx control, pass laws, forced removals and the migratory labour system. Through forced removals many people were taken from where they were living and dumped in poverty-stricken areas without services, infrastructure or adequate means of supporting themselves. Influx control, pass laws and regulations allowed African men to move to the "white" urban areas to work, but confined many African women to the poverty-stricken rural areas.

Land ownership patterns and restrictions imposed by laws such as the 1913 and 1936 Land Acts resulted in further hardships. The result in South Africa of the 1990s is that those living in rural areas often have neither industrial nor commercial jobs, nor land on which to support themselves.

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Additional obstacles for women

A key contributing factor to women's inability to overcome poverty is lack of access to, and rights in, land. For women discriminatory customary and social practices add to the racial inequities experienced by black men. Power relations that prevent women from leading productive and fulfilling lives operate from the domestic to the highest public level. Legal restrictions also impede women's access to land and the financial services to develop it.

Many rural African women face the legal difficulty that they cannot hold title to land, although they are given a right to till the land and erect a home on a piece of land allocated by the household head. In most rural areas the majority of households use communal land which belongs to the people of that area. Chiefs and headmen make decisions at the local council where decisions are made on the allotment of land for residential and arable purposes. Very few women are chiefs. Under each headman there are homestead heads who exercise authority over their wives and children.

Land Reform

There are three components to the Government's land reform programme:

- Redistribution aims to provide the disadvantaged and the poor with access to land for residential and productive purposes. Its scope includes the poorest of urban and rural dwellers; labour tenants; farm workers as well as new entrants to agriculture. The fact that women do not traditionally own land poses a major challenge to this programme to ensure that women are aware of, and take up their rights to land ownership.
- Land Restitution covers cases of forced removals which took place after 1913. Claims are being dealt with by a Land Claims Court and Commission, established under the Restitution of Land Rights Act (1994). A major barrier for women in this programme is that most of the land now being claimed was in the name of men. Proof of ownership is a prerequisite for land to be restored.
- Land tenure reform involves a review of present land policy, administration and legislation to improve the tenure security of all South Africans and to accommodate diverse forms of land tenure, including forms of communal tenure. The fact that traditional land is all in the name of men poses a major challenge for those seeking to ensure that women are equal beneficiaries. There are also many women involved in tenant farming, but generally their husbands or male partners are regarded as the tenants and are the ones likely to benefit from the legislation. The new reforms which seeks to provide security of tenure for labour tenants will need to find ways of providing security for women as well as men.

Sub-directorate: Women's Land Rights

The Land Reform Programme is in its early stages, and as yet no significant impact has been made on rural women.

A newly established Sub-directorate, Women's Land Rights within Land Affairs, was given the task of developing policy guidelines to facilitate women's participation in land reform. The policy framework was approved by the Minister in April 1997 and the sub-directorate has been renamed the Land Reform Gender Policy. The policy framework is in line with the Ministry's commitments to the Beijing Platform to "take legislative and administrative measures to give women and men equal rights to economic resources including access to ownership and control

over land and other properties, credit facilities, natural resources and appropriate supporting technology".

Legislation

In drafting policy for and implementing land reform, the Department of Land Affairs is reviewing laws so as to give women security and equal rights with men regarding ownership, control and use of land. The Department of Agriculture, too, is planning a comprehensive legislative review in 1997 so as to strengthen the link between legislation and key developments in gender policy. At present the Department is concentrating on legislation which will afford all married women the right to use property registered in the name of their spouses as security to obtain financial assistance. The Department of Water Affairs has issued regulations under the Water Act (1956) which specify that at least one third of all members of Water Services Committees should be women.

The Black Administration Act, the Natal Code of Zulu Law as well as common African law and custom have been identified as discriminating against women (see Article 2). Issues of rights to property of married women are addressed in the Issue Paper of the SA Law Commission on the Harmonisation of the Common Law and the Indigenous Law (see Article 16).

Most redistribution projects of the Land Reform Programme involve groups holding land in common. More often than not the leadership is dominated by men who are largely responsible for important decisions. Even where women are assertive enough to participate in discussions, their views are often not reflected. To address this problem, a new law, the Communal Property Associations Act (1996), makes provision for non-discrimination between women and men in communal property ownership and use of communal land. It expressly protects the interests of women.

However, while the forms of ownership developed for communal systems and family-based ownership will focus on the rights and status of women, the Department of Land Affairs recognises that gender-neutral legislation on its own is not sufficient to address women's lack of rights in land. Currently rural women are largely ignorant of the Land Reform Programme and what it has to offer, and what rights they have. Male domination in decision-making structures/positions is a contributing factor. Information does not get through to them because they are not regarded as potential heirs to land. Policy reforms will have to recognise, and redress, the power dynamics and inequalities and find ways of supporting disadvantaged groups to claim and enforce their rights.

Access to finance and credit

Within the Land Reform Programme the primary source of direct state financial assistance is the Settlement/Land Acquisition Grant. This is currently set at R15 000 per household. There is some concern that the use of "household" as a unit of analysis could be discriminatory given the legal and social status of women who need to benefit from the grant. The Department is studying this issue to see in what ways it can avoid gender bias.

The Departments of Agriculture and Land Affairs are examining how to address the discrimination encountered by women who try to loan money from private institutions. Implementation of the recommendations made by the Strauss Commission regarding Rural Finance should also assist.

Monitoring
The Monitoring and Evaluation Directorate (M&E) and the Sub-directorate on Land Reform Gender Policy within Land Affairs are formulating questions that will provide information for policy development. They are also identifying indicators to evaluate impact. The Directorate has identified a range of indicators which will be gender-disaggregated. These include both claims and projects that involve only women, as well as the involvement of and impact on women and women-headed households in programmes and projects targeting both women and men.

Women farmers

In 1994 the Department of Agriculture's official definition of "farmer" was radically altered to include previously disadvantaged farmers. The new definition makes specific reference to women, as well as to resource-poor producers more generally. This shift established the basis for focusing attention on the specific conditions faced by female producers. In addition, the principles of agricultural policy were examined to ensure that they were both gender-sensitive and non-discriminatory.

The review includes ongoing development of, for example, the Food Security Policy. The Department of Agriculture has sent a representative of its reference group on women to attend a training programme on gender issues and food security. A programme for Improving the Status of Women in Agriculture is at present in the initial stages.

Thus far the Department has funded special projects focussing on the needs of previously disadvantaged farmers. The funds should be of benefit to women farmers who fall within the new definition. R260 000 was made available for a women's conference held in the North West Province in September 1995.

The Department of Agriculture's White Paper states that: "The additional work burden and time constraints placed on women because of their domestic responsibilities will be accommodated and ameliorated in the design and delivery of service and infrastructure to resource poor farmers." The Central Statstical Service's (CSS) time use study will provide detailed information on the paid, unpaid, "productive" and reproductive work of women and men. The CSS is also planning a national rural survey which, for the first time, will extend beyond white commercial farmers to investigate the circumstances of all those who live and work on the land.

Women farm workers

Women farm workers on (white) commercial farms are subject to multiple forms of subjugation. These include the facts that:

- farm workers generally - both women and men - earn extremely low wages, and the wages of women are even lower than those of men;
- women farm workers make up the bulk of seasonal and casual workers, and so do not receive a regular income;
- women who live on a farm are dependant both on the farmer land-owner and on their relationship to a man as the contract for work and housing is signed with her husband or father; and

- many farm workers have lost, or are losing, both work and home as farmers as a result of retrenchments.

The Department of Labour, rather than the Department of Land Affairs, is largely responsible for farm workers. But the Department of Land has tried, in drafting new legislation around land tenure, to provide independent access to land to those who have worked as labour tenants, and to prevent employers from throwing them off the land. These moves have been strongly opposed by (mostly white) commercial farmers.

Up to the 1980s farm workers were not covered by most of the labour legislation. Over the last few years the three basic statutes - the Labour Relations Act, the Basic Conditions of Employment Act, and the Unemployment Insurance Act - have all been extended to cover farm workers. The challenge that remains is effective enforcement.

Meanwhile women farm workers have taken the first steps in organising themselves. In 1996 a network of five NGOs coordinated local and regional workshops for women farm workers in eight provinces. These culminated in a national conference for women farm workers and dwellers held in June 1997. The NGOs estimate that the initiative reached over a thousand women on farms as well as raising awareness among NGOs, community-based organisations and research institutions as to the problems faced by women farm workers.

Communications

Communication services are particularly important to rural people, given their distance from a range of goods and services. Improved communication services in outlying areas assist women to the extent that women predominate in these areas.

The Department of Communications has published a Green Paper on Postal Policy, which should result in a new Postal Act in 1998. The Green Paper stresses the important role played by postal services in rural and outlying areas in providing a link with the urban centres. Already since 1994 close to a million homes in disadvantaged areas have been provided with postal addresses. There is, however, still a backlog of close to four million addresses. Increased access to postal services will assist in delivering a range of social security services. These include pensions, housing subsidies, and rural finance subsidies. The aim is to transform the service into a People's Bank which can improve the quality of life of poor people, and especially those in rural areas.

The Department of Communications has also established a Telecentre Pilot Project. Over the next five years hundreds of telecentres will be established. The telecentres will offer telephones, as well as more sophisticated services such as Internet to those living in outlying areas. Information on issues such as tenders, market prices for vegetables and licences will be available. Organisations and individuals who apply for subsidies to establish telecentres are being asked to state explicitly their programme for the empowerment of women in the telecentres.

The Department of Communications is also responsible for Telkom SA Ltd, the major telecommunications operator. Telkom has recently been restructured, and 30% of the shares sold to a consortium. This consortium has pledged R105 million over and above the R5,58

billion purchase price for projects to improve the quality of life of historically disadvantaged communities.

The Department also hopes that the sale will enable Telkom to install 120 000 public telephones and 2,81 million new lines, to upgrade 1,2 million lines, and to connect 2 000 schools and clinics to the Internet. Priority customers for the new lines include schools, clinics and hospitals, libraries and community centres. The Department also has plans for the installation of priority lines for use by women who have been abused.

Health services for women in rural areas

Reliable geographically disaggregated health indicators are generally not available. In 1991 estimated life expectancy at birth of Africans, female and male, ranged between 61,8 years in Gauteng and 58,2 years in North-West. Anecdotal evidence suggests strongly that maternal mortality is higher for women in rural areas from pregnancy related causes. This is a result of poor socio-economic circumstances and limited services in terms of quantity and quality. Similarly, infant mortality rates in rural areas are lowest in those areas with the highest urbanisation rates.

Family planning services are made available to all women in South Africa, including women in rural areas, as part of the Department of Health's comprehensive reproductive health care programme.

Services are, however, more readily available in urban than rural areas. In some areas there are virtually no services at all. Further, cultural beliefs, male dominance, low levels of female education and the perceived insensitivity of health care workers remain as obstacles which prevent women in rural areas from receiving family planning services. The clinic building programme, the free primary health care programme, health education and the re-orientation of health workers are all initiatives which should assist in addressing some of these obstacles.

Appropriate follow up to ensure that safe contraception is provided at mobile and other clinics and at hospitals is necessary.

Social security programmes in rural areas

The Draft White Paper on Welfare recognises that there are too few social welfare personnel in rural and peri-urban areas and informal settlements. These are all areas where the need for social welfare development is great. The White Paper also recognises the need to change the current urban bias in training programmes, and to offer alternatives to the uncritical replication of urban models in rural contexts. The Department plans to recruit social welfare personnel to serve in rural areas and to introduce incentives to attract personnel to these areas.

Training and education

Education and training opportunities are generally underdeveloped in rural areas. Rural schools are in many cases overcrowded. In some cases schooling takes place under trees. Adult basic education and training is either scanty or non-existent. Most available ABET programmes focus on self-help programmes in stereotypical areas such as sewing or

gardening. There are no statistics available on the level of participation of women in these programmes.

The Department of Welfare plans to encourage community development programmes to promote and strengthen capacity-building programmes, micro-enterprises, small business development, and cooperative enterprises for women so as to address widespread rural poverty. It recognises the need for access to credit and skills training if such programmes are to succeed. The Department plans to liaise with public works programmes to ensure that they are effectively targeted at women in need.

Development Programmes

The Department of Welfare has launched pilots of the Flagship Programme for Unemployed Women with Children under Five Years in three provinces. Similar pilots will be launched in each of the other provinces in the near future. The main focus of the Flagship Programme is rural women who were previously excluded from services and developmental as well as economic opportunities.

The programme aims to provide single unemployed women and their young children with the opportunity to escape from poverty and reduce their potential dependency on the state. It will do so by:

- strengthening the role of mothers as natural care givers;
- increasing the educational and training opportunities available to the women;
- creating employment opportunities; and
- developing life skills of the women so as to improve their quality of life.

In addition, the families will have access to social services that support the Programme's aims.

The Department of Trade and Industry has been able to channel funds to rural women through Khula Enterprise Finance and Ntsika Enterprise Development Agency. It has also provided financial assistance to the Rural Women's Movement.

Current initiatives of the Department which could assist rural women include:

- a review of regulations and their impact on women;
- a study of transactions, costs and constraints faced by women in accessing credit; and
- the establishment of a R7m Women's Fund of which R240 000 has so far gone to women involved in the craft industry, and R250 000 to the Development Bank of Southern Africa.

ARTICLE 15: EQUALITY BEFORE THE LAW AND IN CIVIL MATTERS

1	*States Parties shall accord to women equality with men before the law.*
2	*States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. They shall in particular give women equal rights to conclude contracts and to administer property and treat them equally in all stages of procedure in courts and tribunals.*
3	*States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.*
4	*States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.*

Equality before the law

Contracts

South African law states that every person who has attained the age of majority can enter into a contract in their own name. Under the new Constitution majority is reached at 18 years of age.

Women and men are treated equally under the civil law in terms of their legal capacity to conclude contracts and administer property. The General Law Fourth Amendment Act (1993) and the Matrimonial Property Act (1984) abolished the marital power of the husband which said that a wife needed her husband's permission before entering into a contract. Before this, while the wife needed her husband's permission, the husband could enter into contracts, including contracts selling their home, without the consent of his wife. Since the passing of the General Law Fourth Amendment Act (1993) the abolition of the marital power also applies to those who married before 1984. Despite the formal legal abolition, however, in many cases for all practical purposes the husband still makes all the important decisions.

Under the civil law women have the right to administer property without interference by, or consent from, a male. This is true whether they acquired the property during marriage, before marriage or while they were not married.

African Customary Law, on the other hand, still discriminates against women with regard to legal capacity. Section 11(3)(b) of the Black Administration Act (1927) states that:

> *a Black woman (excluding a Black woman who permanently resides in the province of Natal) who is a partner in a customary union and who is living with her husband, shall be deemed to be a minor and her husband shall be deemed to be her guardian.*

This clause makes a wife a minor in terms of both common and customary law. While a guardian under common law cannot sell the property of a child, a husband in a customary marriage can sell the property of his wife without her permission. The concept of customary law minority also allows a husband to prevent his wife from working outside her home, and allows a male migrant labourer to prevent his wife making a contract to get household necessities.

Section 11A of the Black Administration Act allows a woman married under African customary law to contract, access credit and enter into agreements, but she can only do so with respect to property. She does not have these rights in respect of non-property agreements.

Section 119 of the Code of Zulu Law (1983) repealed these restrictions for married African women living in KwaZulu-Natal. However Section 27(3) of the Code states that a married woman is under the marital power of her husband unless they marry out of community of property with an antenuptial contract that excludes marital power. Most African women are, however, married in community of property. In addition, Section 22 of the Code of Zulu Law states that all members of a household - regardless of age and sex - are under the control of the family head with respect to all family matters.

Damages
When damages are awarded in court, these are calculated along traditional principles. These principles privilege traditional income-earners, as well as those with higher incomes. Women are thus likely to receive smaller awards than men.

Women as litigants and legal personnel
Under the civil law women and men have the same rights to litigate - to institute legal proceedings. Under customary law, women who are regarded as minors are not permitted to litigate in their own name without assistance from their husbands or guardians except in respect of some property matters.

Women lawyers are entitled to represent clients before civil courts and tribunals. Women lay assessors are also appointed by courts. Most customary and religious courts are dominated by men. There is little or no representivity of women in these courts.

Access to legal services

The statistics of the Legal Aid Board are not gender-disaggregated either by clients assisted with funding or amounts awarded. Overall, the Board's budgetary allocation favours criminal law cases. The majority of accused in these cases are men. The Board also provides funding for family law matters, in which women are the majority of litigants. However the total amount allocated is much smaller. Lack of finance prevents many women from obtaining custody and guardianship of children, and division and distribution of property on divorce.

Freedom of movement and domicile

Previously many South Africans experienced state control over their rights of movement under legislation such as the Group Areas Act and influx control. These laws severely restricted the choice of all those who were not white as to where they lived and worked. African women were more severely restricted than African men in their movement, in that the laws and practices favoured men who went to work in urban areas in the mines and factories, while making the right of African women to be in these areas largely dependant on their relationship to men.

With the repeal of these laws, women and men of all races are accorded the same formal legal rights of freedom of movement and choice of residence. A woman's domicile is not dependent

on that of her father or husband. However, apartheid settlement patterns and the problem of job shortages and housing persist. Further, traditional, customary and social norms dictate that men are likely to make the major decisions in many families. Marriage limits a woman's right to choose her residence to the extent that tradition, custom and social practices state that a woman must live with her husband. This curtails women in the exercise of their rights.

South African women who live and work temporarily in other countries have the same rights as men to have their spouses and children join them.

ARTICLE 16: EQUALITY IN MARRIAGE AND FAMILY LAW

1	*States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women;*
a)	*The same right to enter into marriage;*
b)	*The same right freely to choose a spouse and to enter into marriage only with their free and full consent;*
c)	*The same rights and responsibilities during marriage and at its dissolution;*
d)	*The same rights and responsibilities as parents; irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;*
e)	*The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;*
f)	*The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;*
g)	*The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;*
h)	*The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration;*
2	*The betrothal and the marriage of a child shall have no legal effect and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.*

Marriage

Forms of marriage

Family relations are governed by a combination of civil law, religious laws and customary laws. Some couples marry under more than one system - for example under both religious and civil, or customary and civil law.

Civil marriages

South African common law, which is mainly based on Roman Dutch and English Law, allows for two forms of marriage:-

- marriage in community of property; and
- marriage out of community of property, where there is usually an antenuptial contract.

In marriages in community of property, spouses pool their assets into a joint estate. Upon dissolution of the marriage each is entitled to a half share of the joint estate. In marriages out of community of property each party is entitled to what they personally had at the time of marriage, and anything that they earned or acquired during it.

Customary marriages

In customary law a wife is a perpetual minor. She does not have a right to own, buy or sell property. Only the husband, guardian or senior male relative has these rights. Women are, however, able to use property. They are thus entitled to live in huts erected for residential

purposes and till the land. On dissolution of a customary marriage anything the wife acquired during the marriage becomes her husband's property.

The Constitution gives everyone the "right to participate in the cultural life of their choice" and also recognises customary law. Both these rights are, however, subject to the provisions of the Bill of Rights, especially the equality clause.

The tensions created by the intersection of the Constitution, a potentially discriminatory Customary Law and CEDAW are raised in the Issue Paper of the South African Law Commission (SALC) on the Harmonisation of the Common Law and the Indigenous Law (Customary Marriage). The Paper envisages the recognition of a customary marriage. This will give women married according to customary law the same status as those who are married according to civil rites. The Paper also seeks to repeal the Natal Code of Zulu Law and customary laws elsewhere in the country which regard women as perpetual minors, whether married or unmarried.

Issues raised in the Paper include:

- the polygamous potential of customary marriage and whether polygamy contradicts the Constitutional commitment to gender equality;
- parental consent for marriage and the power of the bride's father to control marriage;
- a minimum age for marriage since customary law prescribes no specific age for marriage;
- according wives decision-making powers equal to their husbands on questions such as birth control, guardianship of children and family property;
- questions of property on divorce;
- whether the law should require that all divorces - including customary ones - be processed by the courts;
- the duty of the spouses to pay maintenance; and
- the rights and powers over minor children.

Religious marriages

Outside of Christian marriages which are recognised by the state, there are two main types of religious marriages in South Africa - Islamic and Jewish.

Some couples marry under both Islamic and common law. Some marry only under Islamic law. These latter marriages are not currently recognised by the South African legal system. The SALC is investigating the possibility of recognising Islamic marriages. It appears, however, that recognition of Islamic marriages may infringe both the Consititution and CEDAW.

Jewish marriages are recognised by the South African legal system. However, while South African law says that a marriage exists until death or divorce, Orthodox Jewish law requires a religious divorce in addition to a secular one. Further, Orthodox Jewish law says that only the man can initiate divorce proceedings. This requirement is economically and otherwise disadvantageous to women because men can use this power as a bargaining tool in secular divorce proceedings. The Divorce Amendment Act (1996) addresses this problem by ruling that a civil court can refuse to grant a divorce when it feels the man is unfairly using his power.

Other forms of cohabitation
There are many forms of "family" which exist in South Africa. Many men and women live together as spouses even if they are not married. Their unions are not recognised as a "marriage" by the state. There are also unions of partners of the same sex, which are neither recognised nor given the status of marriage under law. This lack of recognition is open to challenge because the Constitution outlaws discrimination on the grounds of sexual orientation.

Rights in marriage

Choice of spouse
Under the common law women have the right to choose a spouse. In African customary law, when a husband dies, the wife "belongs" to the family of the deceased husband and a relative of the husband may automatically become the new husband to the widow. This practice is known as "ukungena" or levirate. In other forms of customary and Islamic religious marriages the families of the husband and wife must be consulted and they decide who should marry the woman. All these practices could well be challenged under the equality clause of the Bill of Rights.

Name
Women have the right to keep their own surnames on marriage. The custom across all groups is for women to adopt the surnames of their partners. But professional women are increasingly choosing either to retain their surnames or add these to the surnames of their husbands to form double barrelled names.

Registration
The registration of marriage and divorce is required by law for common law and religious marriages. The KwaZulu and Natal Codes and the Transkei Marriage Act (1978) also provide for the compulsory registration of African customary marriages. Outside the former Transkei and KwaZulu-Natal, registration is not currently obligatory, but the marriage will be registered if the couple apply.

Polygamy
Polygamy is permitted by African customary law, although the majority of customary marriages are not polygamous. Under common law it is a criminal offence, known as bigamy, to be married to more than one wife. The practice of polygamy could be open to challenge under the Constitution (see Article 5).

Lobola
In African communities it is customary to pay bride price or lobola. The practice occurs in both urban and rural areas, although details of the arrangement vary widely. Some people regard the practice as oppressive to women. Others contest this view and say that lobola accords women worth and dignity. The Black Administration Act (1927) provides that a marriage according to customary law where lobola was paid is not against public policy or principles of natural justice.

Marriageable age and age for lawful sexual intercourse
The Marriage Act (1961) provides that no boy under the age of 18 years and no girl under the age of 15 years can contract a valid marriage except with written permission from the Minister

of Home Affairs. One explanation for the difference in ages is that girls mature earlier than boys. The practice is, however, discriminatory and the SALC will be required to investigate the issue.

The Sexual Offences Act (1957) provides that it is a criminal offence to have unlawful sexual intercourse with a girl under the age of 16 years and a boy under the age of 19 years. It is also an offence to have sexual intercourse with an imbecile or idiot. The minimum ages for sexual intercourse are contradictory since they do not correspond with the minimum age of marriage. The law provides that the offence can be defended where the parties are married. The SALC is proposing that this anomaly be clarified.

Although minors need the consent of their parents or guardian to marry, marriages between minors without the consent of parents are not necessarily null and void. Such a marriage can, however, be dissolved by a court on application by the parent, guardian or minor if the court decides it is against the interests of the minor.

Betrothal of children is also prohibited. However child marriage is practiced in some South African cultures. It also occurs within some religious groups, particularly where arranged marriages are common. Girls have very little choice in these types of marriages as it is the families who choose. This practice is not legally recognised.

Violence in marriage

Legally, men do not have the right to chastise their wives. A wife who is assaulted by her husband can lay a criminal charge against her husband or obtain an interdict in terms of the Prevention of Family Violence Act (1995) (See Recommendations 12 and 19). The latter Act also makes marital rape a crime.

However, in reality, wife battery is considered normal behaviour by an alarmingly high proportion of the population. Violent behaviour between spouses is still perceived by many as a private matter in which police and the legal system should not interfere. Unfortunately this view is widely held even by those who should be responsible for combating domestic violence.

Divorce

Divorce is available to men and women on the same basis in terms of the Divorce Act (1979). In South Africa divorce can be obtained through a couple simply stating that there has been an irretrievable breakdown of the marriage. It is not necessary to prove a period of separation.

Section 7 of the Divorce Act provides that the court make an order on the division of any assets. The order can also provide for payment of maintenance by one party to the other for minor children and/or the former spouse. Where the couple have reached agreement, the order is usually based on this agreement. The court does, however, have the right to reject or adjust agreements where it finds them inequitable.

In practice the courts are increasingly reluctant to provide for spousal maintenance, favouring the notion of the "clean break". Where couples are less wealthy, the Supreme Court also usually tends to leave matters of child maintenance to the lower courts. This causes problems for the custodial parents - overwhelmingly women - in that the maintenance courts do not

function effectively.

If the marriage was in community of property, the parties are each entitled to a half share of the joint estate. In marriages out of community of property, the court can order that assets of one party be transferred to the other party. In doing so the court can consider both direct and indirect contributions to the estate of the other party. This provides for acknowledgement of unpaid labour performed by women caring for the home and children. In practice, however, courts rarely reflect this contribution in their orders.

Those who cohabit without legal marriage are entitled to a return of their contribution should the relationship break down. Such partners do not, however, have a right to maintenance during the relationship or after its breakdown.

If there are children involved, the Mediation in Certain Divorce Matters Act (1987) provides that a Family Advocate must make recommendations to the court on issues of maintenance, custody and guardianship of children before the court makes an order on the principle of the best interest of the children.

The grounds for divorce in terms of African customary law and Muslim law differ from those of the civil law. The grounds for divorce under these laws are also different from women and men.

Rights in respect of children

Number and spacing of children
Women have the legal right to decide on the number and spacing of their children. Women do not legally require permission from their partners to obtain contraceptives. In practice, however, there may be constraints on women exercising these rights (see Article 12).

Upbringing of children
Women have the equal right to make decisions about the upbringing of their children. In practice their control is regulated by the cultural norms of their family and the family of their partner or the father(s) of their children.

Guardianship
The Guardianship Act (1993) provides that the parents of children in a civil marriage have joint guardianship and custody over minor children. Where children are born outside of marriage the mother generally has sole guardianship. However, the latter position has recently been reversed by the Constitutional Court in the case of Fraser v Naude (1997). Under customary law the father has guardianship and control of the children if lobola has been paid.

Custody
Generally women are awarded custody in the event of divorce, particularly of younger children. Where cases are contested, however, men sometimes have a better chance of winning because of their superior financial resources.

Maintenance
The Maintenance Act provides for magistrates to order the non-custodial parent - usually the father - to make regular payments to the custodial parent for the maintenance of their

child/ren. The private maintenance system is in disarray; many non-custodial parents do not comply with maintenance orders, and enforcement is poor. In practice custodial parents bear the major costs of rearing their children.

The Report of the Lund Committee (see Article 13) included a thirteen-page appendix of suggested ways of improving the maintenance system. These suggestions arose out of a workshop involving a wide range of interest groups. The SALC is investigating the problems and has issued a discussion paper. One of the many suggestions for improving the system is the issuing of automatic garnishee orders to obtain a maintenance debt from the salary. At present garnishee orders are only allowed after the person has defaulted.

Some fathers argue that the concept of maintenance is not applicable in customary law in that divorce puts an end to the spouses' relationship and that of their families. This argument ignores the duty of parents towards their children. The Maintenance Act is, in fact, applicable to all parents, whether they are married, divorced, or have never been married.

Adoption
Adoption of children is regulated by the Child Care Act (1983). The mother of a child born outside of marriage has a right to agree that such a child be adopted.

Rights of natural fathers
The SALC has recently investigated the position of natural fathers in respect of their children born outside of marriage. The Commission produced a report and drafted a bill - the Proposed Bill on the Powers of Natural Fathers of Illegitimate Children. The Bill provides that a court may, on application by the natural father, grant him access rights, custody or guardianship if the court is satisfied that this is in the best interests of the child. Where a child is put up for adoption, the Bill provides that, where possible, the father should be informed and given the opportunity to apply to adopt the child himself.

Rights of grandparents
In June 1996 the SALC also finalised a report on "Access to minor children by interested persons". Again, this report contains a draft Bill which has not been enacted. The Bill provides that grandparents can apply for access where this has been denied "by the person who has parental authority over the child", and that any other person can apply where "there exists between him or her and a minor child any particular family tie or relationship". As with other laws relating to children, the basis of any decision is the "best interests of the child".

Surrogacy
The SALC has also completed an investigation of surrogate motherhood and drafted legislation on this.

There are two types of surrogacy - altruistic and commercial. In the first instance the surrogate mother undertakes to carry a child for someone for love, friendship or other altruistic reasons rather than financial gain. Usually the surrogate mother is a relative or friend of the commissioning couple. Commercial surrogacy, on the other hand, is undertaken in exchange for payment. This type of surrogacy is not permitted in South Africa. The only form of payment which can be made by the commissioning parents is to cover the expenses of pregnancy incurred by the surrogate mother.

After consultations, the SALC has drafted a Bill which provides that a surrogate motherhood agreement must be in writing, signed by all parties and confirmed by a court. To qualify as a surrogate mother, a woman must have already given birth naturally to at least one child. She must also, at the time of entering into the agreement, be married, divorced or widowed . The commissioning parents must be married and the gametes of at least one of them must be used in the surrogacy procedure. The commissioning wife must be unable to give birth to a child and this condition must be permanent and irreversible. The surrogate mother must be physically and psychologically suitable to complete the pregnancy.

The Bill has not yet become law. The proposed restrictions on the marital status of the surrogate mother could well be unconstitutional.

Inheritance

Under civil law a wife has a claim to maintenance and support against her deceased husband's estate even if his will has bequeathed all of the property to others. If married in community of property, she is entitled to half of the estate. In marriage out of community of property, the wife is entitled to what she contributed to the marriage.

Under customary law women have no rights of inheritance from their husbands. A relative of the husband - usually a brother - becomes the guardian of both the wife and the children. Widows undergo a purification ritual and are then eligible to be married by the husband's relative. Widowers are not treated in the same way.

Widows and daughters of a deceased man either have no legal right to inheritance in customary law if there is no testament, or have a lesser right than that of a son. A widow or daughter can receive property under a will, but if it is immovable property a son or senior male relative has to administer the property. Generally, immovable property and property of significant value, such as a herd of cattle, is left to sons or senior male relatives. Property of minimal value like small livestock and farming implements can be left to a wife and daughters.

These practices are open to challenge under the equality clause of the Bill of Rights. The Justice Vision 2000 document recommends that they be further investigated with a view to taking the necessary corrective measures.

Family Court

There is general consensus that the family law system requires overhauling. The laws are fragmented. In practice, the courts which deal with divorce are still racially segregated. The Justice Department has embarked on a plan to establish a number of pilot "family courts" which will operate as "one stop family law shops". They will deal with all of the laws relevant to relationships and families under one roof. It is hoped that they will provide the foundation for a more integrated and co-ordinated approach to the administration of family law which will eventually incorporate changes to the law as well as new procedures and institutions.

GENERAL RECOMMENDATION 12: VIOLENCE AGAINST WOMEN

The Committee on the Elimination of Discrimination against Women,
Considering that Articles 2, 5, 11, 12 and 16 of the Convention require the States Parties to act to protect women against violence of any kind occurring within the family, at the workplace or in any other area of social life,
Taking into account Economic and Social Council resolution 1988/27,
Recommends to the States Parties that they should include in their periodic reports to the Committee information about:

1 The legislation in force to protect women against the incidence of all kinds of violence in everyday lay (including sexual violence, abuses in the family, sexual harassment at the workplace etc);
2 Other measures adopted to eradicate this violence;
3 The existence of support services for women who are the victims of aggression or abuses;
4 Statistical data on the incidence of violence of all kinds against women and on women who are the victims of violence.

GENERAL RECOMMENDATION 19: VIOLENCE AGAINST WOMEN

The Convention in Article 1 defines discrimination against women. The definition of discrimination includes gender-based violence, that is, violence that is directed against a women because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm of suffering, threats of such acts, coercion and other deprivations of liberty. Gender-based violence may breach specific provisions of the Convention, regardless of whether those provisions expressly mention violence.
Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of Article 1 of the Convention. These rights and freedoms include:

a) The right to life;
b) The right not to be subject to torture or to cruel, inhuman or degrading treatment of punishments;
d) The right to equal protection according to humanitarian norms in time of international or internal armed conflict;
d) The right to liberty and security of person;
e) The right to equal protection under the law;
f) The right to equality in the family;
g) The right to the highest standard attainable of physical and mental health.
h) The right to just and favourable conditions of work.

Gender violence in South Africa

South Africa has a high incidence of all forms of violent crime, including gender violence, which affects women of all races, classes, and ages, in rural and urban areas. It affects both rich and poor. The high levels of violence are, in part, a reflection of the state of conflict and deprivation through which the country has emerged. State violence has decreased dramatically since 1994. The levels of other kinds of violence have, however, remained the same or - in

some cases - appear to have increased.

The seriousness of the issue is widely recognised in government and by the general public. During 1997 violence against women was added as one of the priority crimes under the National Crime Prevention Strategy. Nevertheless, the rates of reported rape, sexual abuse of children and domestic violence continue to rise. Domestic violence is still not included as a defined violent crime, and there are many institutional and other barriers to measuring the prevalence of the different forms of gender violence.

While laws exist to protect women against gender violence, in practice those who are violated often face further problems in their treatment. In many cases the problems are a result of the attitudes and prejudices of law enforcement agencies and other government personnel. In other cases they are a result of the inaccessibility of services, particularly in rural areas.

An example of problems in treatment is that when survivors of rape give evidence in court, the "cautionary rule" applies. This rule requires that a judge must "show awareness of the special dangers" of relying on uncorroborated evidence of a complainant. This rule lowers the conviction rate and means that women experience the court as judging them untrustworthy. The rule has been judged unconstitutional in Namibia on the basis that it discriminates against women. All laws regarding rape will be referred to the South African Law Commission (SALC) for review in the near future. The cautionary rule is one of the issues identified for scrutiny.

> In 1992, in a ground-breaking decision (*S v Daniels and Three Others*), Supreme Court judge D M Williamson accepted expert evidence on rape trauma syndrome (RTS) when deciding on the sentence. The court acknowledged that RTS can explain why a victim may not have a clear memory about an incidence of rape, and may not find it easy to describe the rape. At present this decision is formally binding only on the Cape Provincial Division of the Supreme Court. Generally rape trauma and battered women syndrome are not well understood in South Africa and the weight given to these ideas is likely to depend on the individual presiding judicial officer.

Victims of rape are confronted by a range of stereotypes which result in most rape victims not reporting their cases at all.

- First the victim faces embarrassment at the police station, where she has to tell her story within hearing of other people.
- The victim is then referred to a district surgeon, entailing another embarrassing wait and revelations.
- Finally, prejudices among (largely white male) judges against rape victims in South Africa are well documented. Passing down sentence in one case, a judge was quoted as saying that the experience could not have been that shattering, since the women had not been a virgin!

Prostitutes and males enjoy little or no protection under current legislation.

Legislation

The Constitution

The Constitution is the supreme law of the land. It includes a number of provisions which deal with respect for human dignity, freedom of security of the person and protection from "all forms of violence from either public or private sources" (see Article 1).

The right to freedom from violence in *private* situations is particularly important to women as it provides constitutional recognition of, and protection against, family violence and all forms of violence in the home.

Publicity of the right to security of the person

The Department of Justice has engaged in several initiatives to publicise this right:

- On 20 March 1997, during National Constitution Week, the Department of Justice promoted the theme "Everyone has the right to live free from fear". Posters and caps were distributed at schools throughout the country and representatives of the Department spoke at courts and schools about human rights and the Constitution.
- On Human Rights Day, 21 March 1997, the Department of Justice hosted a celebration in Kimberley. The theme of the programme was violence against women as a crime. Material from the Constitutional Assembly was distributed. Participants were drawn mainly from the local townships; most had never participated before in a national event. Posters and t-shirts promoting the concept "Safety is a human right" and encouraging women to access the courts to obtain redress for acts of violence committed against them were produced by the Department and distributed both in Kimberley and elsewhere.
- Human Rights Day was the culmination of the Department's Campaign on Preventing Violence Against Women (see below). It provided an opportunity to link women's rights and human rights.

Family Violence Interdicts

The major piece of legislation dealing with gender-based violence is the Prevention of Family Violence Act. This Act came into effect on 1 December 1993, before the first democratic elections and the ratification of CEDAW. It provides for magistrates to issue interdicts against perpetrators of domestic violence on application by the person abused or another interested party. Among other provisions, such an interdict can prevent the abuser from entering the common home. The Act also establishes marital rape as a crime.

Many non-governmental organisations have been critical of the limitations and operation of the Act. The SALC has recently published a Discussion Paper which incorporates the views of NGOs, magistrates, academics, attorney-generals offices and other interested parties. Among the recommendations are a broadening of the categories of possible complainants in terms of relationship to the abuser, and a broadening of the definition of domestic violence. New legislation or amendments will be formulated after consideration of public comments.

During October 1996 the United Nations Special Rapporteur on Violence Against Women visited South Africa. She made available a framework for model legislation on domestic violence. This will be included in the considerations of the SALC.

Sexual Offences Act
The law relating to violence against women including rape applies to commercial sex workers. Prostitution, however, is a criminal offence, as is the selling of a women's sexual services by a third party (See Article 6).

Criminal Law Amendment Act
The Criminal Law Amendment Act (1991) provides for special treatment of young witnesses. The Act provides that when it appears that a witness under the age of 18 years will suffer undue mental stress, the court can allow the witness to give evidence through an intermediary. Equipment to enable this has already been installed at 115 courts countrywide. Four mobile units are also available. Because of the cost of sophisticated electronic equipment, one way mirrors are now being installed in new court rooms.

Criminal Procedure Amendment Act
One of the main frustrations which women victims currently encounter, especially in cases of rape, is the unnecessary delays in these cases. The Criminal Procedure Amendment Act (1996) should assist women and children as it is primarily aimed at eliminating delays in the finalisation of trials.

Further legislation is planned to increase the maximum penalties which can be imposed by the lower courts (from 1 year to a maximum of 3 years in the District Courts and from 10 to 15 years in the Regional Courts). This legislation will enable the courts to impose heavier sentences in cases of violence against women and children in appropriate circumstances.

Amendments of 1995 have already strengthened the authority of a court to refuse bail in rape cases, especially where a weapon is used or when a gang rape occurs. The amendments have also provided for more effective prevention of interference with state witnesses. The Department is now promoting legislation which will oblige presiding officers to impose compulsory minimum sentences for serious offences such as rape where a firearm or other dangerous weapon is used. The draft provisions have been approved by Cabinet and will be refined following consultation.

In a recent watershed judgement on a serial rapist, the Appeal Court made it clear that rapists should expect no leniency from now on. Grant Chapman, convicted of three rapes conducted within the course of a week in Cape Town in 1991, was sentenced to seven years for each count, with two sentences running concurrently, giving an effective sentence of 14 years.

In response to the argument by Chapman's Counsel that the sentence was too stiff, Chief Justice Ismail Mohammed said: "What can be more serious than this? Women enjoying themselves in a public place have their privacy invaded by rape and threats with a knife. This is undoubtedly a severe sentence, but has the time not come for the community to show revulsion at such crimes? "

Justice Mohammed added that "the time has come for this court to say that the women of South Africa are entitled to walk the streets of the country in peace and that louts cannot invade their peace. We are determined to protect the equality, dignity and freedom of all women and we shall show no mercy to those who seek to invade these rights". (Sunday Times, 25 May, 1997)

Non-legislative initiatives

Parliamentary public hearings

The first public hearings of the parliamentary Ad Hoc Joint Committee on Improving the Quality of Life and Status of Women in South Africa, held in February 1977, focused on the issue of violence against women. The Justice portfolio committee also dedicated a meeting to violence against women, on 6 June 1997. These occasions attracted great public interest. As with other hearings, however, there was the problem of access by those who do not live in the centres and do not have the resources or information to give their views.

Campaign on Violence Against Women

The Department of Justice has conducted a major national Campaign on Preventing Violence Against Women. The Campaign was launched on 25 November 1996, International Day of No Violence Against Women and ran for four months until 21 March 1997, Human Rights Day. It was widely publicised in the media - in newspapers as well as on radio.

The campaign had two facets - external and internal. The external facet involved a public education campaign with the distribution of posters and pamphlets promoting themes such as:

- violence against women is a crime;
- the courts are there to help you; and
- safety is a human right.

The internal facet involved workshops to commence a sensitisation process within the Department and engage Departmental personnel in seeking solutions. The workshops targeted magistrates, judges, prosecutors, members of the SALC and other personnel from within the Department, as well as parliamentarians, staff of the Departments of Welfare, Safety and Security, Health and relevant NGOs.

The workshops identified the following issues as requiring careful scrutiny:

- the cautionary rule;
- the definition of rape;
- the definition of consent;
- rules regarding the admissibility of evidence of the complainant's sexual history;
- bail and parole policies;
- the requirement for the prosecution to make full disclosure;
- sentencing options;
- pornography involving children; and
- the development (or further development and implementation) of gender sensitivity training courses for staff at district surgeons' offices, magistrates courts, attorney-generals' offices, the SAPS, judicial officers (including supreme court judges) and all relevant role-players who deal with violence against women.

The workshops also resulted in a number of recommendations. Many of these draw on earlier work of NGOs and other agencies. Some of the major recommendations are:

- the development of an holistic, coordinated and integrated approach to dealing with violence against women throughout all relevant government departments and NGOs;
- reform of the substantive law and procedural matters concerning sexual assault; and
- the establishment of a high level task team to develop a set of standard, practical guidelines for handling sexual violence against women.

The task team includes representatives from the Department of Justice, the SALC, the South African Police Service, the District Surgeons' Office, Attorney-General's Office, Correctional Services, Welfare, magistrates, the Appellate Division of the Supreme Court and an NGO representative of the National Network on Violence Against Women. This latter Network is a coalition of NGOs working in the field of violence against women and the line departments of Justice, Welfare, Police, Labour, Health, Education and Correctional Services. SAPS, the district surgeons' offices, senior prosecutors, court staff, judicial officers, social workers and NGOs.

The Task Team has now drafted guidelines which are currently being circulated within the separate line departments for comment. A synthesised manual will then be produced for all interest groups. The Departments of Health, Welfare and Justice have together drawn up a protocol on rape which provides for an integrated approach by the different agencies.

Open Courts Day for Women

One of the most significant events during the Campaign was the Open Courts Day for Women held on 7 March, International Women's Day. Courts around the country held information sessions and seminars on women's legal rights and issues such as maintenance and interdicts. The success of the Open Courts Day depended on the diligence and enthusiasm of staff of the courts concerned, but in many cases provided evidence of the serious light in which the government and judiciary see the issue.

The Deputy President, Thabo Mbeki, spoke at Protea Magistrates Court in Soweto, the Minister of Justice spoke at Mitchells Plains Court in Cape Town and the Deputy Minister spoke at Pretoria Magistrates Court. Many courts had other local dignitaries and staff from NGOs who provided information to the participants.

The following extract from the Deputy President's speech sums up the mood of the day:

> *I have not come here to bring instructions from above. Rather I am here as a witness and observer. This open courts day is an occasion of interaction between the courts and the people. The courts must learn from civil society what is required of them. People must not feel intimidated by the courts and the courts must not be threatened by the people. This day represents the beginning of a process whereby the courts develop a culture of responsiveness to the needs of ordinary people and the special needs of women.*
>
> *I wish to congratulate magistrates for the spirit with which they have entered into this event. I know that for many it is the first time they have made links with organisations in their area which provide services to the community. To work effectively the justice system must perceive itself as part of the web of social and community services. It is not separate from, but operates within, civil society and this day is a practical reflection of a new approach.*
>
> *Planning for this open day has been an example of transformation at a practical level. By inviting the magistrates, gender representatives and NGOs to organise events together each party has had their eyes and ears opened to opinions and knowledge of the others. Magistrates have heard about the concerns of women in accessing the court and obtaining a fair hearing. NGOs and women's groups have heard about the reality of limited resources...*
>
> *Further, magistrates have involved their court staff in the event so that people throughout the justice system have a stake in the outcome of an event. Such an opportunity has never existed before and the response has been overwhelmingly enthusiastic. Direct participation in a community event aimed at rendering courts more open and accessible empowers people. It engages them in transformation voluntarily and willingly. I hope this represents the beginning of things to come."*

The Open Courts Day was a significant success. Women who attended raised a range of issues relating to the laws, procedures and practices around violence against women and maintenance, as well as more general issues such as court facilities, representivity and gender-sensitivity of court officials and public education.

Robben Island celebration

On 8 March 1997, International Women's Day was celebrated on Robben Island as a way of reclaiming the Island for women following the rape of a CGE Commissioner there in January 1997. The first half of the event consisted of testimonies from women, their families, and workers in NGOs who told stories of violence against women and their subsequent treatment by the legal system.

Subsequent developments

The Department is planning an internal evaluation of the Campaign through a workshop with magistrates and some of the other role-players. The workshop will be used to establish the lessons learnt and exchange ideas for future similar events.

A number of magistrates courts have already implemented changes to improve the experiences of complainants in sexual offence cases. For example, separate waiting rooms have been established in some courts so that the complainant need not wait in the presence of

the accused and his family. Meanwhile prosecutors, clerks and interpreters are being conscientised by the magistrates who attended the meetings. This will enable them to play a more effective role in disseminating information on the prevention of violence against women both inside and outside their homes.

Fundamental change can only occur when the whole of society works together. Departments are thus working in partnership with each other as well as with the Parliamentary Women's Group, NGOs, women's community groups and civil society. Men are being specifically included in the White Ribbon Campaign launched by the Department of Welfare and the National Network on Violence Against Women. White ribbons have been widely distributed to be worn by men as a sign of solidarity with victims of gender-based violence.

As all of this activity is new, its long-term impact is still unknown. Many women will still find the experience of going to court very traumatic and alienating, but there has been a positive start towards new attitudes and approaches.

Victim Support

Courts in Durban and Pietermaritzburg have set up victim support programmes where NGOs work closely with court personnel to give legal information and counselling. The new gender desks and the work being done to sensitise court personnel are beginning to change the way courts handle cases of gender-based violence. Some courts now provide separate waiting rooms for victims so that they do not have to confront the accused while waiting for the case to be heard. Some have set aside private rooms where women can feed and change babies. The SA Police Service has also established some rape and trauma support centres.

Under the National Crime Prevention Strategy the Department of Welfare is leading an Interim Steering Committee on Victim Empowerment with the aim of promoting a victim-centred criminal justice system. Its focus areas are:

- to empower personnel at all levels of the South African Police Service (SAPS), Justice, Welfare, Correctional Services and NGOs to work with victims in a restorative manner;
- to develop curricula for training courses with this objective;
- to promote a victim centred justice system which may include a Charter on Victims' Rights.

It is intended that the training courses will be accredited under the National Qualifications Act which will enhance the employment and promotion prospects of those who have completed the course.

Speaking at a briefing in Cape Town, Minister of Welfare and Population Development Geraldine Fraser-Moleketi said this year special emphasis will be given to empowering women affected by rape and battering, and to empowering abused children.

The Interim Committee proposes that a National Coalition on Victim Empowerment ultimately be established. This body would have the task of overseeing the implementation of the Victim Empowerment Programme with the NCPS.

Gender Violence in Educational Institutions

These are no statistics available on the extent of violence at schools. However, many cases of girls being raped, harassed and assaulted on and around school premises have been reported. Their attackers include teachers and fellow students, as well as those not connected to the school.

According to a report in 1994 by Africa Watch, a London-based human rights organisation, many girls in South Africa stop going to school because they fear rape[1] and girls are often unable to leave their homes to study at night for fear of being raped. Headmasters of 15 farm schools in and around Johannesburg believe that more than three quarters of their pupils are victims of sexual harassment and abuse. One headmaster stated that "children walking to school - some have a 20km walk - are being offered food and money in return for sexual favours". He commented that if children had transport to and from school, the rate of sexual abuse would be drastically reduced[2].

The seriousness of the situation at tertiary institutions prompted the University of Cape Town, as far back as 1989, to establish a committee of enquiry into sexual harassment. The university now has a sexual harassment prevention and support service. Many other tertiary institutions are beginning to develop policies around the issue. Most provinces have reported plans to establish some system of dealing with cases of violence. The Gauteng Education Department talks about the establishment of grievance officers in every school to assist in resolving problems of sexual violence, amongst others.

In addressing the safety of girls and women at primary, secondary and tertiary institutions, the Heads of Education Departments Committee (HEDCOM), has agreed to request curriculum committees responsible for developing early childhood development programmes, as well as pre-service and in-service teacher education programmes, to deal with the issue of violence against women and girl children. Systems are still to be put in place to deal with violence against girls and women within the education area.

Violence and Health Services

Hospital staff are not required to inform the police of cases in which they suspect there has been domestic violence. Where violence involves minors - whether girls or boys - reporting to the police is obligatory.

Rape survivors are tested for HIV/AIDS if they request this. Rapists are not routinely subjected to tests as such a practice is considered unconstitutional.

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[1] *The Citizen*, 23 August 1995.
[2] *The Star*, 5 December 1995.

CONCLUSION

South Africa has come a long way in the short time that has elapsed since the negotiation of the interim and new constitutions, and the first democratic elections. Government is aware of both the achievements and the many inequities and challenges which remain. This report provides a benchmark against which future developments can be measured. The next South African report to CEDAW will, hopefully, record rapid advances and the solution of many of the problems noted in this, our first CEDAW report. It will also address the limitations noted in the Introduction.

This report records the current status and initiatives which have been introduced or planned to date. The government recognises, in line with the Constitution, that addressing the many areas of gender inequity requires not only the simple removal of gender discrimination, but also positive and proactive action. It recognises also that changing laws and policies is not enough. Further action is needed to ensure that progressive laws and policies do not remain on paper, but are translated into real change on the ground.

ACRONYMS AND ABBREVIATIONS

ABET	Adult Basic Education and Training
CASE	Community Agency for Social Enquiry
COSATU	Congress of South African Trade Unions
CRSS	Committee for the Restructuring of Social Services
CSS	Central Statistical Service
CSW	Commission on the Status of Women
DAW	United Nations Division for the Advancement of Women
ECD	Early Childhood Development
ECOSOC	Economic and Social Council
GEIS	General Export Incentive Scheme
GETT	Gender Equity Task Team
IAJ	Institute for the Advancement of Journalism
IDASA	Institute for Democracy in South Africa
ILO	International Labour Organisation
INSTRAW	UN International Research and Training Institute for the Advance of Women
LOGIC	Local Government Information Centre
METF	Medium Term Expenditure Framework
MPL	Member of the Provincial Legislature
NEDLAC	National Economic, Development and Labour Council
NGO	Non-governmental organisation
NLC	National Literacy Cooperation
OAU	Organisation of African Unity
OSW	Office on the Status of Women
PWG	Parliamentary Women's Group
RTS	Rape Trauma Syndrome
SABC	South African Broadcasting Association
SADC	Southern African Development Community
SALC	SA Law Commission
SALGA	South African Local Government Association
SAMDI	South African Management and Development Institute
SASA	South African Schools Act
SMME	Small, medium and micro-enterprises
STD	Sexually transmitted disease
TB	Tuberculosis
TBVC	Transkei, Bophuthatswana, Venda and Ciskei
TEFSA	Tertiary Education Fund of South Africa
TLU	Thousand Learner Unit
UN	United Nations
UNECA	United Nations Economic Commission for Africa
UNHCR	United Nations High Commission for Refugees
WEU	Women's Empowerment Unit

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